THE LEGISLATIVE ACTS

OF THE

GOVERNOR GENERAL OF INDIA IN COUNCIL,

FROM 1834 TO THE END OF 1867;

WITH

AN ANALYTICAL ABSTRACT PREFIXED TO EACH ACT; TABLE OF CONTENTS AND INDEX TO EACH VOLUME; THE LETTERS PATENT OF THE HIGH COURTS, AND ACTS OF PARLIAMENT AUTHORIZING THEM.

(TO BE CONTINUED ANNUALLY.)

VOL. II.

1852—1858.

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CALCUTTA:

MESSRS. THACKER, SPINK & CO.,

PUBLISHERS TO THE UNIVERSITY.

And may be had of all other Booksellers.

1868.

XV/383

LONDON:

PRINTED BY JOHN KING AND COMPANY, LIMITED,

QUEEN STREET, CHEAPSIDE, E.C.

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THE

LEGISLATIVE ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

BOMBAY.—CUSTOMS ACT.

ACT NO. I. OF 1852.

[*Passed on the 2nd January*, 1852.

1. Repeals R. 6, 1799; Ss. 1, 2, 3, R. 9, 1800; S. 7, cl. 2, R. 1, 1805; Ss. 14, 17, 20, 25, R. 2, 1810; R. 6, 1814; R. 20, 1827, Chaps. 3, 6, 7; R. 1, 1833; A. 1, 1838; A. 9, 1845, as respects Bombay; A. 2, 1846; and all other Acts and Regulations described respecting levy of customs, &c.

2. Saves anchorage and harbour dues and special duties of specified kind from operation of this Act.

3. Empowers G. in C. to appoint Commissioners of Customs who are to hold office during pleasure, &c.

4. Empowers G. in C. to appoint Collectors of Customs, &c.

5. Empowers G. in C. to appoint subordinate officers of Customs, &c.

6. Empowers G. in C. to delegate the power given to him in last section.

7, 8. Offence of obstructing officer in exercise of his duty, or (8) offering bribes, &c., subject to fine or imprisonment.

9. Supreme Court to have no jurisdiction over any thing done under this Act; and thing wrongfully done but with reasonable and probable cause, not to be compensated for beyond two annas.

10, 11. Officer under this Act guilty of wilful breach of duty, &c., or (11) of practising any fraud, &c., how punishable.

12, 13. Confiscation of goods and infliction of penalties may be adjudged by Collectors, &c.; and (13) the adjudicating officer may order restoration of goods on such terms as he thinks proper, &c.

14. Empowers Collectors to decide on seizures and confiscations and mitigations of the law, as he pleases, and to order rewards to officers.

15. Empowers Magistrates, &c., of the place where the penalty is incurred, to adjudicate.

16. Empowers Collector to refuse Port Clearance if master or owner shall be liable to fine for breach of Customs law.

17. Restricts agency relating to the entrance or clearance of Ships, to persons licensed by Collector, except clerk or servants of known accredited agents or firms, &c.

18. Customs duties on imports by sea from ports not subject to the E. I. Co., or from Aden, or the Straits of Malacca, Tenasserim or Arracan, to be as in Schedule A.

19. Customs duties on exports of Indian manufacture or produce to Arracan, Tenasserim provinces, Aden, Straits of Malacca or ports beyond the territories of E. I. Co., to be as in Schedule B.

20. Regulates duty on spirits exported from any Indian port to a Bombay port.

21. Empowers G. in C. to direct the anchorage tolls specified in Schedule C. to be levied on such kinds of crafts as shall be specified.

22. Empowers G. in C. to give special exemption from legal duties, and Collector to give pass for baggage.

23. Entitles the exporters of salt on which duty has been paid to certificate of that fact.

24, 25, 26. Empowers G. in C. to fix a value on *ad Volorem* dutiable articles, and (25) if articles have lost value by damage, Collector may reduce value, and (26) articles not officially valued to be dutiable at market value.

27. Goods not to be passed through Custom House except on written application, in form to be prescribed.

28. Goods not officially valued, how value of, to be stated; and what may be done if undervalued.

29. Collector may take goods at market value, if declared value is below the fair value.

30. Goods passed for shipment after port clearance to be liable to double duty; or if free to 5 per cent. on value, and if entitled to drawback, drawback to be forfeited.

31. Provides for care of Ships putting back from stress of weather, &c.

32. Duty on goods relanded before port clearance, to be returned, &c.

33. Goods manifested for re-export on same Ship in which they were imported not subject to export duty; Goods transshipped to be subject to what duty.

34. Duties levied by error not to be returned unless cleared in two years.

35. What drawback may be allowed and on what re-exports.

36. Enacts a penalty on counterfeiting or falsifying, &c., any invoice, &c., for purpose of clearing, &c.

37. In what cases Collector may grant duplicate of certificate, manifest, &c.

38. Masters of Ships on arrival, and on being required to give such information as may be required, &c.

39. Master on arrival of Ship to report quantity of gunpowder on board on pain of fine.

40. Master on arrival in any port to deliver certificate of Ship, registry, or other pass or sea letter, &c., and a manifest of cargo, &c.

41. If manifest be not true, master may be fined, &c.

42. Manifest how to be delivered if Ships stop short of usual place for delivery of it.

43. Vessel not entitled to inward entry or break bulk, till orders of Collector, &c.

44. Vessel not entitled to entry outwards until applied for in writing and orders of Collector, and what such application shall contain.

45. Master to give a Bond, if Ship is bound for any other port of E. I. Co.

46. No goods to leave Ship until entry of Ship and order for discharge of cargo.

47. Goods landed or put on board contrary to rules, liable to confiscation.

48. If goods manifested are not on board, or short of manifested quantity, penal duty and fines to be paid, &c.

49. Shipping or unshipping goods, &c., between sunset and sunrise, or on irregular days, to be punishable by fine.

50. Boat note to be sent on shore with cargo: what it shall contain.

51. 20 days, exclusive of Sundays, &c., from time officer goes on board, shall be allowed for discharge of vessels not exceeding 600 tons, 30 for larger vessels.

52. No vessel to depart without port clearance, &c., and no port clearance to be granted till production of specified documents, viz., (1) certificate of registry, (2) Senior Magistrate's certificate, (3) Indian Naval Store-keeper's, (4) Marine paymaster's, (5) Registrar's of Shipping, (6) list of crew, &c.

53, 54. On applying for port clearance Master to deliver manifest of outward cargo, &c., (54) which manifest may be amended if goods are taken on board after application, &c.

55. Ship departing without port clearance Master or owner shall be fined.

56. No transhipment of goods to be made without special order in writing, &c.

57, 58. G. in C. may declare what shall be places for landing and shipment of merchandize, &c., and (58) in every port there shall be one or more of such places, and goods landed elsewhere shall be liable to confiscation.

59. G. in C. may make anchorage rules for coasting and country craft, &c., for delivery of manifests, &c., landing and shipping goods: and persons contravening such rules to be fined not exceeding 100 rupees.

60. Goods brought to Custom House not corresponding with description may be confiscated.

61. Exported goods found in the harbour or imported goods found on wharf, &c., liable to confiscation, unless it is proved that they have been passed.

62. G. in C. may fix rent for warehouse-room.

63. Importer and exporter to pay expenses incidental to compliance with Custom House rules.

64. Collector may assess duties on board ship before landing.

65. G. in C. may make rules respecting passenger's baggage and mails, &c.

66. Goods attempted to be removed after they have been landed without a pass shall be confiscated unless the attempt was made without sanction of the owner.

67. Goods landed and not cleared in 3 months may be sold for duties, &c.

68, 69, 70. G. in C. may maintain special establishment of boats for landing and shipping cargo, &c., and (69) when such establishment is appointed, Collector may send officers thereof on board ship, &c., and (70) such officer shall be entitled to suitable accommodation, &c.

71. Collector may grant extension of time for discharge of import Cargo.

72. Twenty days shall be allowed for taking in outward cargo; or in specified case 30 days from time of arrival of Ship in port.

73. If in the interval between discharges of inward cargo, and entry outward, goods are shipped, master shall be fined.

74. Collector may issue search warrant for search of any vessel.

75. Officer wishing to search suspected persons may be required to take them before Collector or J. P. Females to be searched only by females and privately, and officer requiring search without reasonable cause shall be liable to fine, &c.

76. Empowers officer under search warrant to take sufficient force and enter houses between sunrise and sunset and break open doors, &c.

77. Cargo boat not to make fast to or lie along side vessel with Custom House officer on board, unless it has a permit or the goods are carried with a pass.

78. Fines to be recovered before Magistrates and enforced under Act 2, 1839. Schedule A. Import duties. Schudule B. Export duties. Scuedule C. Anchorage tolls on country craft.

An Act for the consolidation and amendment of the Laws relating to the Customs under the Presidency of Bombay.

I. The following Regulations and parts of Regulations of the Bombay Code, and the following Acts and parts of Acts of the Government of India, are repealed, that is to say, Sections I., II., and III., Regulation VI. of 1799; Clause II., Section VII., Regulation IX. of 1800; Sections XIV., XVII., XX., XXI. and XXV., Regulation I. of 1805; Section IV., Regulation II. of 1810; Regulation VI. of 1814; Chapters III., V. and VII., Regulation XX. of 1827; Regulation I. of 1833; Act I. of 1838, except in so far as it repeals any Regulation of the Bombay Code, or Act of the Government of India; Act IX. of 1845, so far as it relates to the Bombay Presidency, except so far as it repeals any other Act; Act II. of 1846; and all other Acts and parts of Acts, and all other Regulations and parts of Regulations of the Bombay Code, so far as such Acts or Regulations prescribe the levy within the Bombay Presidency of any Customs duties, as well on transit by land as on import and export by sea, or which relate in any way to such duties, or which require the payment of any fee leviable by Customs Authorities on account of any vessel which may enter any port in the Territories subject to the Presidency of Bombay.

IV. The Governor of Bombay in Council may appoint such persons as he may deem fit for the control and supervision of the collection and management of the Customs in the Bombay Presi-

dency under this Act, as Collectors of Customs, or under such other designation as the said Governor in Council shall determine; the persons so appointed shall be subject to the authority and control of the Commissioner or Commissioners (if any such officer shall have been appointed) in such manner and to such extent as the said Governor in Council, from time to time, may direct. [Incorporated into Act XXIX., 1857, by s. 5 of that Act.]

V. The Governor of Bombay in Council may appoint all other proper persons to execute the duties of the several subordinate officers necessary to the due management and collection of the Customs, and may require from such persons such securities for their good conduct therein as the said Governor in Council may deem necessary; and may, from time to time, transfer any part of the duties and powers of any officer of Customs under this Act to any other officer in such cases and under such restrictions as the said Governor in Council may deem fit; and every officer of Customs appointed or employed on any duty relating to the said Customs shall hold his office during the pleasure of the Governor of Bombay in Council: all persons holding any office or employment in the said Customs, at the time of the passing of this Act, shall continue to be so employed therein under this Act until duly removed therefrom. [Incorporated into Act XXIX., 1857, by s. 5 of that Act.]

VI. The Governor of Bombay in Council may delegate the whole or any portion of the powers with which he is invested by the preceding section to any Commissioner or Collector or other officer of Customs regularly appointed under the provisions of this Act, and all subordinate officers of Customs, who may be appointed by such Commissioner or Collector, or other officer of Customs, by virtue of such delegated power, shall be liable to be dismissed, suspended or fined to an extent not exceeding two months' pay by the authority by which they were respectively appointed, subject to the control of Government, or of superior authority in the Customs department. [Incorporated into Act XXIX., 1857, by s. 5 of that Act.]

Sections 4, 5, 6 are retained here, because by reference to them in Act XXIX., 1857, s. 5, they are kept alive, that Act not being repealed.

Repealed by Act VI., 1863, except Repealing Enactments.

BOMBAY.—LAND CUSTOMS.

Act No. II. of 1852.

[*Passed on the 2nd January*, 1852.

1. Customs duties on goods passing by land into or out of Foreign European settlements shall be levied at the rates prescribed by Act 1, 1852.

2. G. in C. may declare territory of native chief foreign territory, and goods passing into or out of it liable to double duties.

3. For the levy of land customs on frontier, certain chokees may be established; officers at such chokees may examine goods, and prevent their passing till certificate of payment of duty is produced.

4. Officer of Sea Customs may grant certificate of payment of duties, and such certificate shall entitle goods to pass at frontier chokee.

5. G. in C. to appoint proper officer for receipt of duties on frontier, who shall give certificate of payment: what such certificate shall contain.

6. No certificate to be received at any chokee more than 30 days after date, certificates may be renewed, if not used.

7. G. in C. may prescribe by what routes goods shall be allowed to pass into or out of foreign territory; goods sent by other routes, except through ignorance or mistake, shall be sent back.

8. Goods unlawfully passed or attempted to be passed between sunrise and sunset across guarded frontier, to be confiscated.

9. Chokee officer permitting goods to pass uncovered by certificate, or to pass by prohibited route, to be imprisoned not exceeding 6 months or fined not exceeding 500 Rupees.

10. Chokee officer needlessly or vexatiously injuring goods, under pretence of examining, &c., or wrongfully detaining goods covered by pass, to be imprisoned not exceeding 6 months or fined not exceeding 500 Rupees, &c.

11. Confiscations and penalties under this Act recoverable as under Act 1, 1852.

An Act for the collection of Land customs on certain foreign frontiers of the Presidency of Bombay.

Repealed by Act XXIX., 1857., s. 1.

BOMBAY.—SPIRITUOUS LIQUORS.

Act No. III. of 1852.

[*Passed on the 16th January*, 1852.

1. Empowers the G. in C. to introduce arrangements for assessment and collection of duties on Spirits, not inconsistent with this Act.

2. Collector may grant certain licenses for manufacture of Spirits at his discretion.

3. Collector not obliged to accept highest offer for farm of Abkaree duties.

4. No person to sell Spirits by retail without license in form specified.

5. Spirits not to be manufactured without license. What the license shall specify.

6. Spirits not to exceed certain strength, or be confiscated, or liable to double duty.

7. Spirits manufactured under a license, not to be removed without a pass, certifying payment of duty and directing specified particulars.

8. Empowers Collector to employ establishments necessary to protect revenue.

9. Spirits when imported by land from one part of Territories of E. I. C. or one part of Presidency to the other, shall be liable to same duty as Spirits imported by Sea.

10. Prohibits manufacture, preparation, and sale of drugs or drink from Bhang, Ganja, Grain, Opium, &c., except under license, which Collector may refuse to give, or having given may recall, &c.

11. Prohibits adulteration of Spirits by mixture of noxious drugs, &c.

12. Offenders against this Act, or against terms of license, to be fined, &c., and imprisoned on default of payment, &c.

13 Powers of Collector under R. 21, 1827, C. 13, to extend to provisions of this Act.

14. Empowers Collector to seize unlicensed liquor, &c., and unlicensed stills, &c., and sell same on behalf of Government.

15. All duties and powers of Collector may be exercised by officer specially appointed under R. 21, 1827, S. 55.

16. Certain powers of Collectors may be exercised by Mamlutdars and Mahalkurrees, &c.

17. Collectors, Magistrates, and others, not to be liable to civil suits for Acts done by them *bonâ fide* and on reasonable and probable grounds.

18. Act not to have effect within the local jurisdiction of Supreme Court.

An Act to amend the law relating to spirituous and intoxicating liquors, drugs, and preparations within the Territories subordinate to the Presidency of Bombay.

Whereas Chapters XI. and XII. of Regulation XXI. of 1827 of the Bombay Code have been found to be difficult of application in some parts of the territories subordinate to the Presidency of Bombay, owing to local and peculiar causes, it is enacted as follows:

I. The Governor of Bombay in Council may introduce into any part of the said territories such arrangements for the assessment and collection of the revenue derivable from the manufacture and retail sale of spirits as local circumstances in each case, in the judgment of the said Governor in Council, may require, the same not being inconsistent or incompatible with the provisions of this Act. [Further powers given to the G. in C. by Act XXII., 1859, s. 3.]

II. The licenses mentioned in Section LVIII., Clause 1, Regulation XXI. of 1827, of the Bombay Code, may be granted by the Collector at his discretion, for the manufacture of spirits at any place within his Collectorate, whether a Sudder distillery be there established or not.

III. It shall not be imperative on the Collector to accept the highest offer for the farm of the Abkaree duties under Section LX., Clause 2, Regulation XXI. of 1827, of the said Code, but the Collector shall be at liberty to use his discretion as to the tender he will accept under the general instructions of Government.

IV. No person shall directly or indirectly retail in the said territories spirits, however or wheresoever manufactured, except under the authority of a license from the Collector, to be granted in the form of Appendix I. to the said Regulation XXI. of 1827, or in such form, and after payment of such fee, as Government may from time to time appoint.

V. Spirits may be manufactured in the said territories for exportation or removal under a licence from the Collector, but not otherwise; and such license, when granted, shall specify the spirit so authorized to be manufactured, the place at which, and the period for which the manufacture may be carried on, and that the same is permitted for the purpose of removal or exportation only.

VI. Spirits manufactured under the last Section shall not exceed the strength which may, from time to time, be declared by public notification in each district, and shall be liable to the payment of such duty as the Governor in Council shall, from time to time, impose. Liquor found to exceed the prescribed standard shall be liable to double duty, or confiscation, at the discretion of the Collector.

VII. Spirits manufactured under the fifth Section of this Act, shall not be removed from the place of manufacture, except under a pass from the Collector, certifying the payment of the aforesaid duty, and specifying the name of the person exporting or removing the same, the quantity of spirits, their destination, the route by which they are to be conveyed, and the dates from and to which the pass shall be in force, which pass shall exempt the spirits lawfully removed under it from the payment of any further duty in their progress through the same territories,

excepting always such import or Customs duty, if any, as may be payable at the place of their destination under any Act or Regulation now or hereafter to be in force.

VIII. The Collector may place such establishments on the premises where the manufacture of spirits for exportation or removal is permitted, and may adopt such other precautions as may be necessary to give effect to the provisions of this Act having reference thereto.

IX. Spirits imported by land from any part of the territories of the East India Company, whether subordinate to the Government of Bombay or not, into any other part of the said territories subordinate to the said Government, shall be liable on importation to the same rate of duty, under the same circumstances and rules as are provided in Section XX. of Act No. I. of 1852, for amending the Customs laws of the Bombay Presidency with respect to spirits imported by sea.

X. It shall not be lawful in any part of the territories subject to the Government of Bombay, to manufacture or prepare for sale, or sell directly or indirectly, any intoxicating drugs or materials, or any intoxicating drink or preparation manufactured from Bhang, Ganja, Grain, Opium, or other materials, of what nature or description soever, except under a license from the Collector of the Zillah, and it shall be competent to the Collector to refuse or to re-call such license whenever he shall deem it expedient, and every such license when granted shall specify the name of the drug, material, drink, or preparation so authorized to be manufactured or sold, the place or district of manufacture or sale, and the length of time for which such license is to run, and any other terms or conditions which the Governor of Bombay in Council may from time to time deem it expedient to require, and such fees shall be demanded from time to time, on the grant of such licenses, as the said Governor in Council may sanction.

XI. It shall not be lawful to mix any noxious drug or material in or by other process to adulterate spirits manufactured under the provisions of the said Regulation XXI. of 1827, or of this Act.

XII. All persons offending against, or aiding others in offending, directly or indirectly, against any of the provisions of this Act, or committing a breach of any of the conditions of a license

to be granted under this Act, or obstructing Officers or others in the execution of their duties connected with any of its provisions, shall be punished by fine not exceeding Rupees five hundred, to be commuted, in default of payment, to imprisonment not exceeding six months; and any person having in his possession intoxicating drinks or preparations manufactured contrary to the provisions of this Act, or for which he is unable satisfactorily to account, shall be deemed to be possessed of them illegally, and shall be subject to the penalties above specified.

XIII. The powers conferred on the Collector by Chapter XIII. of the said Regulation XXI. of 1827, shall extend and be applicable to the provisions of this Act, so far as the same are capable of being so applied.

XIV. The Collector shall have full powers to seize and destroy all unlicensed liquor, preparations, drugs, or materials, and all unlicensed stills, and to sell the same, if deemed expedient, on behalf of Government.

XV. The duties, powers, and authorities hereby vested in the Collector shall devolve upon, and may be lawfully exercised by the officer specially appointed under Section LV. of the said Regulation XXI. of 1827, for the purposes herein mentioned.

XVI. The powers vested in the Collectors of Land Revenue by Chapter XIII. of the said Regulation XXI. of 1827, and by Sections XII., XIII. and XIV. of this Act, may be exercised by Mamlutdars and Mahalkurrees; provided always that those Officers shall not be authorized to adjudge any fine exceeding Rupees fifteen in amount, commutable, in default of payment, to twenty days' imprisonment: and provided further, that any order passed by a Mamlutdar or Mahalkurree in virtue of this Act shall be subject to appeal to the Collector or his Assistants, within one month from its date, and that no suit for damages shall be instituted in a Civil Court by persons deeming themselves aggrieved by any proceeding of a Mamlutdar or Mahalkurree under the authority of this Act, unless they shall first have made an appeal to the Collector or his Assistants.

XVII. In all actions or civil suits which may be brought against Collectors, Magistrates or others for acts done by them in carrying out the provisions of this Act, or the provisions of the said Regulation XXI. of 1827, if it shall appear at the trial

that the act complained of was done *bonâ fide*, and that there were reasonable and probable grounds for the same, the plaintiff shall be nonsuited with full costs to be paid by him.

XVIII. This Act shall not have effect within the local jurisdiction of Her Majesty's Supreme Court.

Extended by Act XXXIV., 1857, as to sale of Ganja, to Presidency of Bombay.

EMIGRATION.

Act No. IV. of 1852.

[*Passed on the* 16*th January*, 1852.

1. Repeals Act 21, 1844, as respects carrying emigrant labourers from Calcutta.

2. Ships with emigrants from Calcutta to Jamaica, British Guiana and Trinidad to depart only between 31st August and 1st March.

3. Directs that no two-decked vessel shall carry emigrant labourers unless there is space specified between such decks.

4. Repeals Act 21, 1843, S. 1, and enacts that emigration to Mauritius from Bombay may take place under Act 15, 1842.

5. G. in C. of Bombay may nominate Protector of Emigrants at Bombay, and no emigrant to leave Bombay without a certificate of having been engaged by Agent of Mauritius, &c.

An Act to amend the law relating to emigrant vessels and the emigration of labourers.

Repealed by Act XIII., 1864.

MARRIAGE ACT.

Act No. V. of 1852.

[*Passed on the* 16*th January*, 1852.

Recites Act entitled "For Marriage in India" (14 and 15 V., C. 40).

1, 2. Notice of intended marriage to be given (in form A.), to Marriage Registrar of District where parties reside; and (2) such notice to be filed by Registrar kept and entered in "Marriage Notice Book," which shall be open to inspection without fee.

3. Marriage Registrars to publish such notices, in specified manner, and in case of marriage of minor, copy of such notices to be sent to other Registrars of same district, &c.

4, 5. Minor not to be married until expiration of 14 days after notice unless, (5) specially ordered by Supreme Court to issue certificate for marriage in less time.

6. Certificate for Marriage in form B. to be issued by Marriage Registrar.

7. In case of Native Christians, Marriage Registrar to ascertain that the notice and certificate are understood, and to translate and explain same.

8, 9, 10. If marriage forbidden, same to be noted by Marriage Registrar on Certificate, and such note to be a protest under 14 and 15 V., C. 40, S. 7, and (9), if Registrar is not satisfied that person forbidding is authorised by law to forbid, Registrar may obtain opinion of Supreme Court or Zillah Judge, and in what manner, or opinion of G. G. in C. if the case occurs in a territory of a native prince, &c., and the protest not to avail, if the said Court, Judge or G. G. in C., decides against it, and (10) if the case occurs in native state, either of the parties may apply to the G. G. in C.

11. Marriages under this Act to be solemnized between 6 a.m. and 7 p.m.

12. In case of marriages of Native Christians, not understanding the English language, the declarations to be translated to them.

13. In suit concerning the validity of a marriage under this Act, no proof to be required of the formal Acts being performed according to Act.

14. Makes it felony for Marriage Registrar to improperly issue certificate for marriage more than 3 months after notice of marriage or for marriage of person under 21 years of age, or after marriage shall have been lawfully forbidden, and makes it same offence for any person to solemnize marriage in such cases.

15. Marriage Registrars in native states to transmit certificates to Secretary of Government.

16. Imposes the penalties of perjury on persons making false oath or declaration or signing false notice or certificate or forbidding a marriage under a false representation as to his title.

17. Prosecutions under this Act to be commenced within two years after offence committed.

18. G. G. in C. may appoint Marriage Registrar in native states, and prescribe what fees such Registrars may receive.

19. Empowers the Government of each Presidency to appoint a salary for Registrars not exceeding 50 rupees per month.

20. Magistrate of district to act as Marriage Registrar in case of death, absence, &c., of latter.

21. Requires Registrars to allow searches to be made at reasonable times in Register book on payment of specified fees.

22. Makes it felony to destroy or injure Register book or counterfoil of certificates or to falsely make, &c., such book, &c., or to make false entries, &c., or to give false certificates.

23. Provides for correction of errors in the Registry book within one month afterwards

24. This Act to extend only to marriages under it and not to any other marriages.

25. Petitions under 14 and 15 V., C. 40, S. 5, may be on unstamped paper.
26. Act to take effect from 1st February, 1852.
Schedule A. Notice of marriage, B. Registrar's certificate.

An Act for giving effect to the provisions of an Act of Parliament, passed in the 15th year of the reign of Her present Majesty, entituled "An Act for Marriages in India."

Whereas by an Act passed in the Session of Parliament holden in the Fourteenth and Fifteenth years of the reign of Her present Majesty, entituled, "An Act for Marriages in India," it was enacted (among other things) that it should be lawful for the Governor General of India in Council, from time to time, by laws and Regulations (not inconsistent with the provisions of the said Act of Parliament), to be made in the manner, and subject to the provisions by law required in respect of laws and Regulations made by the said Governor General of India in Council, to provide for the inspection and publication of Notices of Marriage given under the said Act of Parliament, for the Custody and protection from Injury of Marriage Register Books, for appeals from and references in case of doubt by the Marriage Registrars in relation to Marriages forbidden or Protests entered under the said Act of Parliament, for fixing the hours between which Marriages might be solemnized under the said Act of Parliament, for appointing the Officers to whom Certificates were to be transmitted by the Marriage Registrars, and generally for giving effect to the provisions of the said Act of Parliament, it is hereby enacted as follows:

Form of Notice and length of Residence necessary.

I. In every case of Marriage intended to be solemnized in India, after the First day of February next, under the provisions of the said Act of Parliament, one of the parties shall give Notice in writing, in the form of Schedule (A) to this Act annexed, or to the like effect, to any Marriage Registrar of the District within which the parties shall have dwelt for not less than five days, then next preceding, or, if the parties dwell in different Districts, shall give the like Notice to a Marriage Registrar of each District, and shall state therein the name, and surname, and the profession, or condition of each of the parties intending Marriage, the dwelling place of each of them, and the time, not being less than five days, during which each has dwelt therein,

and the Church, Chapel, or other building in which the Marriage is to be solemnized; provided that if either party shall have dwelt in the place stated in the Notice during more than one Calendar month, it may be stated therein that he or she hath dwelt there one month and upwards.

Inspection of Notices.

II. The Marriage Registrar shall file all such Notices, and keep them with the Records of his Office, and shall also forthwith enter a true copy of all such Notices fairly into a book, to be for that purpose furnished to him by the Government, to be called the "Marriage Notice Book," and the Marriage Notice book shall be open, at all reasonable times, without Fee, to all persons desirous of inspecting the same.

Publication of Notices.

III. The Marriage Registrars, or Registrar of all Districts in the British Territories in India, shall respectively publish all such Notices of Marriage given in their respective Districts by causing a copy of such Notices to be affixed in some conspicuous place in their respective offices, or, where such Registrars are Ministers of the Christian Religion, ordained or otherwise set apart to the Ministry of the Christian Religion, such Notices shall be affixed in some conspicuous place in the Church or Chapel or place of worship in which such Ministers respectively officiate. When one of the parties intending Marriage (not being a widow or widower) is under twenty-one years of age, every Marriage Registrar shall, within twenty-four hours after the receipt by him of the Notice of such Marriage, send, or cause to be sent, by the Post or otherwise, a copy of such Notice to all the other Marriage Registrars (if any) in the same District, who shall likewise affix the same in some conspicuous place in their own offices or Chapels as aforesaid.

Suspension of Certificate in the case of Minors.

IV. Where by the oath or declaration required by the Sixth Section of the said Act of Parliament, it appears that one of the parties intending Marriage (not being a widow or widower) is under twenty-one years of age, the Marriage Registrar shall not issue his Certificate under the provisions of the Second Section of the said Act of Parliament until the expiration of fourteen days after the entry of such Notice of Marriage.

Supreme Court may order Registrar to issue his Certificate in less than fourteen days.

V. When one of the parties intending Marriage (not being a widow or widower) is under twenty-one years of age, and both parties intending Marriage are at the time resident in any of the Towns of Calcutta, Madras, or Bombay, and are desirous of being married in less than fourteen days after the entry of such Notice as aforesaid, it shall be competent for both parties intending Marriage to apply by petition to the Supreme Court of such Town, or any Judge thereof, for an order upon the Marriage Registrar to whom the Notice of Marriage has been given, directing him to issue his Certificate at some time before the expiration of the said fourteen days required by Section IV. of this Act. And it shall be competent to the said Supreme Court, or any Judge thereof, on sufficient cause being shown, in their or his discretion, to make an order upon such Marriage Registrar, directing him to issue his Certificate, at any time to be mentioned in the said order, before the expiration of the said fourteen days required by Section IV.; and the said Marriage Registrar, on receipt of the said order, shall proceed to issue his Certificate in accordance therewith.

Form of Certificate.

VI. The Certificate to be issued by the Marriage Registrar, under the provisions of the Second Section of the said Act of Parliament, may be in the form of Schedule B. to this Act annexed, or to the like effect, and the Government of each Presidency or Place shall furnish to every Marriage Registrar a sufficient number of Forms of Certificate.

Notice and Certificate to be translated to Native Christians.

VII. When any Native Christian about to be married, applies for or tenders a Notice of Marriage, or applies for a Certificate from a Marriage Registrar, such Marriage Registrar shall ascertain whether the said Native Christian understands the English language, and if he does not, the said Marriage Registrar shall translate such Notice or Certificate, or both of them, as the case may be, or shall cause the same to be translated, to such Native Christian, in the language of such Native Christian, or the said Marriage Registrar shall otherwise ascertain whether such Native Christian is cognizant of the purport and effect of the said Notice and Certificate.

How issue of Certificate may be forbidden.

VIII. Any person authorised in that behalf may forbid the issue of the Marriage Registrar's Certificate, by writing, at any time before the issue of such Certificate, the word "forbidden" opposite to the Entry of the Notice of such intended Marriage in the Marriage Notice Book, and by subscribing thereto his or her name and place of abode, and his or her character, in respect of either of the parties, by reason of which he or she is so authorised, and the said word "forbidden," so written and subscribed as aforesaid, shall be deemed a protest, within the meaning of the seventh Section of the said Act of Parliament.

References by the Registrars in cases of doubt.

IX. In all cases where a Marriage Registrar, acting under the provisions of the Fourth Section of the said Act of Parliament, shall not be satisfied that the person forbidding the issue of the Certificate is authorized by law so to do, the said Marriage Registrar shall apply by petition, which may in all cases be on unstamped paper, where the district of such Registrar is within any of the towns of Calcutta, Madras, and Bombay, to the Supreme Court of Judicature in the Presidency or place within which such district is comprised, or if such district be not within any of the said Towns, then to the Judge of the Zillah or District within which the same is comprised, and the said petition shall state all the circumstances of the case, and pray for the order and direction of the Court concerning the same, and the said Supreme Court, or any Judge thereof, or such Judge of the Zillah or District, shall be empowered to examine into the allegations of the Petition and the circumstances of the case in a summary way, and if upon such examination it shall appear that the person forbidding the issue of such Certificate is not authorized by law so to do, such Supreme Court, or any Judge thereof, or such Judge of the Zillah or District, shall declare that the person forbidding the issue of such Certificate is not authorized as aforesaid, and that then and in such case such Certificate shall be issued, and the like Proceedings may be had under the said Act of Parliament in relation to such Marriage, as if the issue of such Certificate had not been forbidden by such person. And in all cases where a Marriage Registrar, appointed to act within the Territories of any Native Prince or State

in alliance with the East India Company, acting under the provisions of the sixth Section of the said Act of Parliament, shall not be satisfied that the person forbidding the issue of the Certificate is not authorized by law so to do, the said Marriage Registrar shall transmit a statement of all the circumstances of the case, together with all documents and papers relating thereto, to the Governor General of India in Council, and if it shall appear to the said Governor General of India in Council that the person forbidding the issue of such Certificate is not authorized by law so to do, the said Governor General of India in Council shall declare that the party forbidding the issue of such Certificate is not authorized as aforesaid, and that then and in such case such Certificate shall be issued, and the like Proceedings may be had under the said Act of Parliament in relation to such Marriage, as if the issue of such Certificate had not been forbidden by such person.

Appeal where Registrar in Allied Native State refuses Certificate.

X. In all cases whatsoever where a Marriage Registrar resident in the Territories of any Native Prince or State in alliance with the East India Company has refused to issue his Certificate, it shall be lawful for either of the parties intending Marriage to apply by petition to the Governor General of India in Council, and the said Governor General of India in Council shall be empowered to examine the allegations of the Petition, in a summary way, and shall decide thereon, and decision of the said Governor General of India in Council shall be final, and the Marriage Registrar, to whom the application was originally made, shall proceed in accordance therewith.

Hours for Marriages.

XI. Every Marriage solemnized under the provisions of the said Act of Parliament shall be so solemnized between the hours of six in the morning and seven in the evening.

Declarations made at the Marriage to be translated to Native Christians.

XII. When any Native Christian is married under the provisions of the said Act of Parliament, the party solemnizing the said Marriage shall ascertain whether such Native Christian understands the English language, and if he does not, the party solemnizing the said Marriage shall, at the time of the solemnization thereof, translate, or cause to be translated, to

such Native Christian, in the language of such Native Christian, both the declarations made at such Marriage, in pursuance of Section IX. of the said Act of Parliament.

Proofs as to Notice, Certificate or Hours of Marriage, &c., not necessary to establish Marriage.

XIII. After any Marriage has been solemnized under the said Act of Parliament, it shall not be necessary, in support of such Marriage, to give any proof in respect of the Notice of Marriage, or the Certificate, or the translation thereof respectively, or in respect of the hours between which any Marriage may be solemnized, or in respect to the said translations of the said declarations in Section IX. of the said Act of Parliament contained, nor shall any evidence be given to prove the contrary in any suit touching the validity of such Marriage.

Penalties.

XIV. Every Marriage Registrar who shall knowingly and wilfully issue any Certificate for Marriage after the expiration of three Calendar months after the Notice shall have been entered by him as aforesaid, or who shall knowingly and wilfully issue, without the order of a competent Court authorizing him so to do, any Certificate for Marriage where one of the parties intending Marriage (not being a widower or widow) is under twenty-one years of age before the expiration of fourteen days after the entry of such Notice, or any Certificate the issue of which shall have been forbidden as aforesaid by any person authorized to forbid the issue thereof, shall be guilty of felony. And every person who shall knowingly and wilfully solemnize any Marriage under the provisions of the said Act of Parliament in the absence of a Registrar of the District in which such Marriage is solemnized, or who shall knowingly and wilfully solemnize any Marriage where one of the parties to such Marriage (not being a widower or widow) is under twenty-one years of age within fourteen days after the entry of the Notice of Marriage, no order for the issue of a Certificate in less than fourteen days having been made by a competent Court, shall be guilty of felony.

Certificates of Marriages in Allied Native States to be transmitted to Secretary, &c.

XV. The Marriage Registrars in the Territories of any Native Prince or State in alliance with the East India Company, shall transmit the Certificates mentioned and referred to in the twelfth Section of the said Act of Parliament

to the Secretary for the Foreign Department of the Government of India.

Punishment for making false oath or declaration.

XVI. Every person who shall knowingly and wilfully make any false oath or declaration, or sign any false Notice or Certificate, required by the said Act of Parliament or this Act, for the purpose of procuring any Marriage, and every person who shall forbid the issue of a Marriage Registrar's Certificate, by falsely representing himself or herself to be a person whose consent to such Marriage is required by law, knowing such representation to be false, shall, on conviction, suffer the penalties of Perjury.

Limitation of Prosecution.

XVII. Every prosecution under this Act shall be commenced within the space of two years after the offence committed.

Appointment of Registrars in Allied Native States, and as to their fees.

XVIII. The Governor General of India in Council may appoint any Covenanted or Uncovenanted Servant of the Company, being a Christian, or any Minister of the Christian religion, ordained or otherwise set apart to the Ministry of the Christian religion, according to the usage of the persuasion to which he may belong, to be a Marriage Registrar in any District, to be assigned by the Governor General of India in Council, in any place within the Territories of any Native Prince or State in alliance with the East India Company. And the said Marriage Registrar shall be entitled to receive the following fees, that is to say: for receiving each Notice of Marriage, one Rupee, for publishing each Notice of Marriage, two Rupees, for the issuing of each Certificate, five Rupees, for every Marriage forbidden or Protest entered, ten Rupees, and for registering each Marriage, three Rupees, and all such fees shall be accounted for and paid over by the Marriage Registrar to the Government Treasury, as in the said Act of Parliament mentioned. Provided always, that in any case in which it shall appear to the satisfaction of the Marriage Registrar, that the parties intending Marriage or Married, under the provisions of the said Act of Parliament, are in indigent circumstances, it shall and may be lawful for the said Marriage Registrar, in his discretion, to remit some part, but not more than three-fourths, of the said fees respectively,

and in each and every such case of remission of fees, the Marriage Registrar shall report the circumstances thereof, and the grounds on which the remission is made, for the information of the Governor General of India in Council.

Salaries of Registrars.

XIX. It shall be lawful for the Government of each Presidency or place to pay any one Marriage Registrar of Calcutta, Madras and Bombay, or of any other District where a considerable number of persons likely to avail themselves of this Act are resident, such salary as they shall think fit, not exceeding the sum of Co.'s Rs. fifty per month.

Provision in case of illness &c., of Marriage Registrar.

XX. When there is only one Marriage Registrar in a District, and such Registrar is absent from such District, or ill, or in case of the death of the only Marriage Registrar in a District, or of any temporary vacancy in such office, the Magistrate of such District shall act as, and be, Marriage Registrar thereof during such absence, illness, or temporary vacancy as aforesaid.

Searches may be made and Certificates given

XXI. Every Marriage Registrar, or other person who shall have the custody for the time being of the Register of Marriages under this Act, shall at all reasonable times allow searches to be made of any Register Book in his custody, and shall give a copy, certified under his hand, of any entry or entries in the same, on the payment of the fees hereinafter mentioned (that is to say), for every search extending over a period of not more than one year, the sum of one Rupee, and four annas additional for every additional year, and the sum of one Rupee for every single Certificate, and all such fees shall be accounted for and paid over by the Marriage Registrar to the Government Treasury.

Penalty for destroying or falsifying Register Book, &c.

XXII. Every person who shall wilfully destroy or injure, or cause to be destroyed or injured, any such Register Book, or the counterfoil Certificates thereof, or any part or certified copy thereof, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, any part of such Register Book, or of such counterfoil Certificates, or of certified copies thereof, or shall wilfully insert, or cause to be inserted, in any Register Book, or counterfoil copy or certified copy thereof, any false entry of any

Marriage, or shall wilfully give any false Certificate, or shall certify any writing to be a copy or extract of any Register Book or counterfoil copy thereof, knowing the same Register Book or counterfoil copy to be false in any part thereof, shall be guilty of felony.

Accidental errors may be corrected.

XXIII. Any person charged with the duty of registering any Marriage, who shall discover any error to have been committed in the form or substance of any such entry, may, within one calendar month next after the discovery of such error, in the presence of the parties married, or, in case of their death or absence, in the presence of two other credible witnesses, who shall respectively attest the same, correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and he shall make the like marginal entry, attested in the like manner, in the counterfoil Certificate thereof to be made by him as in the said Act of Parliament mentioned, and in case such counterfoil Certificate shall have been already transmitted to the Secretary of Government of the Presidency or Place within which he resides, he shall make and transmit in like manner a separate counterfoil Certificate of the original erroneous entry, and of the marginal correction therein made.

Certain Registers of Marriage may be kept as heretofore.

XXIV. Nothing in this Act contained shall be construed to extend to the Registration of Marriages which may be solemnized in India by persons in Holy Orders, or under the provisions of the Act of the 58th year of King George the Third, Chapter 84, or to the Registration of any Marriage solemnized between any two persons professing the Jewish religion, and nothing herein contained, shall affect the right of any Officiating Minister to receive the fees now usually paid for the performance or registration of any Marriage.

Petitions to be on unstamped paper.

XXV. All petitions presented in pursuance of Section V. of the said Act of Parliament, may be so presented on unstamped paper.

Commencement of Act.

XXVI. This Act shall commence and take effect from and after the First day of February, 1852.

SCHEDULE A.

NOTICE OF MARRIAGE.

To Mr. John Cox, a Registrar of the District of *Calcutta*, in *Bengal*.

I hereby give you Notice, that a Marriage is intended to be had, within three Calendar Months from the date hereof, between me and the other party herein named and described.

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church, Chapel, place of Worship, or building in which Marriage is to be solemnised.	District in which the other Party resides, when the Parties dwell in different Districts.
James Smith....	*Widower,*	*Carpenter,*	*Of Full Age.*	16, *Clive Street.*	23 *Days.*	*Union Chapel, Dhurrumtollah.*	
Martha Green ..	*Spinster,*	..	*Minor,*	20, *Hastings Street.*	*More than a Month.*		

Witness my Hand this *Sixth* Day of *May, One Thousand Eight Hundred and Fifty-two.*

(Signed) *James Smith.*

(The *Italics* in this Schedule to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the Parties lives in another District.)

SCHEDULE B.

REGISTRAR'S CERTIFICATE.

I, *John Cox*, a Registrar of the District of *Calcutta*, in *Bengal*, do hereby Certify, that on the *6th* day of *May*, Notice was duly entered in my Marriage Notice Book of the said District, of the Marriage intended between the parties therein named

and described, delivered under the Hand of *James Smith*, one of the Parties (that is to say):

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church, Chapel, place of Worship, or building in which the Marriage is to be solemnized.	District in which the other Party resides, when the Parties dwell in different Districts.
James Smith....	*Widower,*	*Carpenter,*	*Of Full Age.*	*16, Olive Street.*	*23 Days.*	*Union Chapel, Dhurrumtollah.*	
Martha Green ..	*Spinster,*	.....	*Minor,*	*20, Hastings Street.*	*More than a Month.*		

Date of Notice entered *6th May*, 1852.
Date of Certificate given *20th May*, 1852.

The Issue of this Certificate has not been forbidden by any Person authorized to forbid the issue thereof.

Witness my Hand this *Twentieth* day of *May*, *One Thousand Eight Hundred and Fifty-two.*

(Signed) *John Cox*, Registrar.

This Certificate will be void, unless the Marriage is solemnized on or before the *6th* day of *August*, 1852.

(The *Italics* in this Schedule to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the Parties lives in another District.)

Supplemented by Act V., 1865, "The Indian Marriage Act, 1865," as respects Native Christians.

HORSBURGH LIGHT-HOUSE.

ACT NO. VI. OF 1852.

[*Passed on the 30th January*, 1852.

1. Vests the Light-house on Pedra Branca in the E. I. Co.

2, 3, 12. Ships of above 50 tons arriving at Singapore to pay a toll, but not more than once every six months; except (3) Ships of War of any Nation, and (12) Ships only passing through the Straits.

4, 5, 6. Vests management of Light-house in Governor of Straits' Settlements; who (5) may appoint Collector of Tolls, and (6) shall keep up light out of funds so raised.

7, 8, 9. Toll to become due on arrival of vessel, and after demand and non-payment for two days, may be levied under warrant on Ship or Furniture; and (8) no Ship shall have Port-clearance without certificate of payment of toll; and (9) Collector may also recover the toll by entering a suit against the owner or master of Ship, &c.

10. For purpose of ascertaining the Tonnage of vessels, the Collector may require production of the register, &c.

11. Surplus tolls from the Horsburgh light to be applied to erection of other lights or beacons in the Straits.

12. See ante.

13. Interprets the word Ship, &c.

An Act for defraying the Cost of a Light-House on Pedra Branca.

Repealed by Act XIII., 1854.

MADRAS.—SALT REVENUE.

Act No. VII. of 1852.

[*Passed on the 6th February*, 1852.

1, 2, 3. Empowers Head Officers of District Police to hear and determine offences against Salt laws in cases in which value of Salt in question shall not exceed 5 rupees, and may inflict 10 days imprisonment or fine, &c., or (2) if he deems such punishment insufficient may report case to Magistrate for orders, &c., and if (3) no orders are received from the Magistrate in 30 days, the offenders shall be discharged.

4. Heads of Police to report to Magistrates their proceedings under this Act.

An Act for amending Act XVII. of 1840, as to penalties for breaches of the Salt Laws in the Madras Presidency.

Whereas inconvenience has been experienced in consequence of the Head Officers of District Police in the Madras Presidency being prohibited from taking cognizance of petty offences against the Salt Laws, it is enacted as follows:

I. Heads of District Police may hear and determine cases of offences against the Salt Laws, when the value of the Salt in question shall not exceed five Rupees, and may inflict punishment not exceeding ten days' imprisonment with labour, or a fine not exceeding three Rupees, commutable, if not paid, to imprisonment with labour for a period not exceeding ten days.

II. Whenever a Head Officer of District Police shall be of opinion that the punishment which he is empowered to inflict is not adequate to the offence committed, he shall report the case to the Magistrate for his final orders, stating precisely the nature and extent of the punishment he recommends to be inflicted; and the Magistrate shall, at his discretion, issue his orders in writing to the Head Officer of Police, to inflict such punishment as the Magistrate may deem sufficient, not exceeding that declared in Act XVII. of 1840, recording his reasons, if his opinion is at variance with the opinion of the Head Officer of Police; or the said Magistrate shall order the Head Officer of Police to forward the parties and witnesses to him for further investigation.

III. If at the expiration of thirty days from the date and day of despatch of any reference from a Head Officer of District Police to a Magistrate, no answer or order of the Magistrate shall have been received by the Head Officer of Police, then the said Head Officer shall release the offenders, and the confinement which they have so had shall be considered a sufficient punishment for the said offence, and they shall not be liable to be again tried for the same.

IV. Heads of District Police shall report to the Magistrates, in the manner prescribed by Clause 2, Section XXXIII., Regulation XI. of 1816, of the Madras Code, all punishments which they inflict by the authority vested in them by this Act.

SHERIFF'S FEES.

ACT NO. VIII. OF 1852.

[*Passed on the 6th February*, 1852.

1, 2. Sudder Courts in each Presidency to established tables of fees to be taken by Sheriff for execution of Mofussil process. Such fees to be prepaid on application for process; (2) such table to be approved by Governor of Presidency.

3, 4, 5. Fees paid into Court under this Act to be accounted for and paid into local treasury: and (4) Government to pay over the same to the treasury half-yearly, or (5) may compound with Sheriff for same.

6, 7. Sheriff to receive 2½ per cent. on levy over and above aforesaid fees, and (7) in case of execution against the person to have such fee as may be fixed by Sudder.

8. Repeals action of deb. for escape in execution and gives action for damages.

An Act for remunerating the Sheriffs of Calcutta, Madras, and Bombay, for the execution of Mofussil Process under Act XXIII. of 1840.

For making better provision for the Sheriffs of Calcutta, Madras, and Bombay, in remuneration for the execution of legal process issued by Courts out of the said towns respectively, it is enacted as follows:

I. The several Sudder Courts of the Presidency of Fort William in Bengal, and the Sudder Courts of the Madras and Bombay Presidencies respectively, shall make, and from time to time amend, a Table of reasonable fees, to be taken on account of the execution by the Sheriff in such Presidency of any legal process issued by any Court, Judge, or Magistrate, beyond the jurisdiction of the several Supreme Courts established by Royal Charter in Calcutta, Madras, and Bombay, and of the sums to be allowed for costs of advertisement or other notifications of sales of property, according to the amount of the decrees to be satisfied by such sales,—which fees and sums shall be payable by the party applying for the process before it is sent to the Sheriff for execution, and shall be deemed costs in the cause.

II. The said Table of fees and sums, when made or amended as aforesaid, shall be submitted by the Sudder Court of the Lower Provinces of the Presidency of Fort William to the Governor of Bengal, and by the Sudder Court of the North-Western Provinces of the said Presidency to the Lieutenant Governor of those Provinces, and by the Sudder Courts of Madras and Bombay respectively to the Governor in Council of the Presidencies in which such Courts respectively have jurisdiction, for his approval; and the said Table of fees and sums shall have full force and effect, and the fees and sums therein mentioned may be lawfully demanded and taken, from and after the approval thereof by the said Governor, Lieutenant Governor, or Governor in Council, as the case may be.

III. Every such Court, Judge, and Magistrate, issuing process as aforesaid, shall cause a separate account to be kept of the amount of all fees and sums so paid, and shall from time to time, as directed by Government, cause the amount thereof to be paid into the local Treasury.

IV. The Government of each of the Presidencies and Provinces aforesaid shall twice in each year account for and pay over to the Sheriff, for the time being, the amount of fees and sums so paid, after deducting all necessary expenses of receiving and keeping account thereof, and remitting the nett proceeds thereof to Calcutta, Madras, or Bombay, as the case may be; or, where the amount has accrued in the shrievalty of more than one Sheriff, shall apportion the sum paid accordingly between the Sheriff for the time being and the then late Sheriff.

V. The said Governments respectively may compound with the Sheriff for a monthly payment to be made to him instead of such fees and sums, and during such composition may appropriate the said fees and sums to the purposes of Government.

VI. Over and above such fees and sums, or any such monthly payment received instead of such fees and sums, the Sheriff shall be entitled to a fee after the rate of Two Rupees Eight Annas for each Hundred Rupees of the value of any goods or property taken and sold by him in execution of any process issued by any Court, Judge, or Magistrate beyond the local jurisdiction of the said Supreme Courts, which fee shall be taken to cover all expenses connected with the seizure and sale, except the expense of advertisements.

VII. No fee, estimated upon the amount of the sum for which any person is taken in execution, shall be payable to the Sheriffs of Calcutta, Madras, or Bombay, or any of their Bailiffs, for taking the body of any person in execution on any process issued by any Court, Judge, or Magistrate out of the local jurisdiction of the said Supreme Courts respectively; but instead thereof, such fees shall be payable to the Sheriff for taking the body of any person in execution of any such process as shall be settled, from time to time, by the Sudder Court as aforesaid.

VIII. If any person taken in execution on any such process shall escape out of the legal custody of the Sheriff, the Sheriff shall not be liable to an action of debt for such escape, but shall be liable only to an action upon the case for damages in consequence of such escape sustained by the person or persons at whose suit the prisoner was taken.

BITHOOR.—BAJEE ROW.

ACT NO. IX. OF 1852.

[*Passed on the 6th February*, 1852.

Recites the death of Maharajah Bajee Row.

1, 2, 3, 4. Repeals R. 1, 1832, and (2) places Bajee Row's jagheer within the district of Cawnpore, and (3) under the ordinary jurisdiction, civil and criminal; but (4) not so as to disturb antecedent final decrees or decisions.

An Act to repeal Regulation I. of 1832 of the Bengal Code.

Whereas a tract of land situated near the town of Bithoor, in the district of Cawnpore, was granted by the British Government as a jagheer during pleasure to the Maharajah Bajee Row Bahadoor; and whereas by Regulation I. of 1832 of the Bengal Code, it was (among other things) enacted, that from and after the passing of that Regulation, the jurisdiction of the Courts of Civil and Criminal Judicature, and the operation of the General Regulations should not extend to the tract of land aforesaid, and that the said Maharajah should exercise the Civil and Criminal administration of the jagheer, subject to such control as therein mentioned; and whereas the said Maharajah Bajee Row died on the 23th day of January, 1851, and it is now expedient to repeal the said Regulation I. of 1832, it is declared and enacted as follows:

I. Regulation I. of 1832, of the Bengal Code, is hereby repealed.

II. The said tract of land being part of the district of Cawnpore, all Laws and Regulations now in force within such district shall be in force in the said tract of land.

III. All cases, Civil or Criminal, in which the cause of action arose, or the offence was committed, within the said tract of land before the passing of this Act, may be tried and determined by the Courts of the said district of Cawnpore, and the General Law and Regulations now in force in such district may be applied and administered by the said Courts in the trial and determination of such cases; but if in any case it shall appear that the application of the said Laws and Regulations would operate unjustly if applied to the trial and determination of such case, it shall be lawful for such Courts to try and determine the same according to equity and good conscience.

IV. Provided always, that no Court shall try or determine any case, Civil or Criminal, with respect to which a final decision may have been pronounced previous to the said 28th day of January, 1851, by any Court or person within the said tract of land, having at the time of such decision, lawful power and authority to pronounce it.

CALCUTTA.—MUNICIPAL COMMISSIONERS.

ACT No. X. OF 1852.

[*Passed on the 6th February*, 1852.

1, 2. Repeals Act XVI., 1847, and (2) the scheme for election of Commissioners, and the rules made by them.

3. Divides Calcutta into Northern and Southern division, of defined limits, which may be altered by Governor of Bengal.

4, 5. Directs appointment of 4 Commissioners, 2 by the Governor, and 1 by each division of the Town, (5) for one year from the 1st January, in each year, or to continue till successors are appointed.

6, 7, 8. Owners of property taxed at 10 Rupees per month, and (7) occupiers paying 70 Rupees per month for rent to have the right of voting (8) in the division in which he has such qualification; and may vote in both divisions if he has the qualification in both, but not 2 votes in one division.

9, 10, 11, 12. Election to be under management of Sheriff and his Deputies, and (10) to take place between 1st and 20th December, and (11) in the Town Hall or such other place as Sheriff may appoint, and (12) between hours of 8 and 5 o'clock.

13. Only persons qualified to vote to be eligible as Commissioners.

14. Candidates for election to give the notice to Sheriff and leave with him Certificate of qualification.

15, 16. Candidates to defray expense of election, and deposit 200 Rupees with Sheriff to cover same; and (16) surplus of deposit to be returned.

17. Commissioners to prepare annually lists of owners and occupiers qualified to vote, which shall be open to public inspection.

18, 19. Secretary on written application of voter to give voting ticket and to keep a Register of such voting tickets; and (19) such voting ticket to be conclusive evidence of right to vote at next election.

20, 21, 22, 23. Sheriff or Deputies to attend at voting places with a closed voting box for each division; and (21) receive from voter the tickets and put same in voting box; and (22) may employ persons to identify voter; and (23) decision of Sheriff to be conclusive as to right to vote.

24, 25, 26. Sheriff at close of the poll to count votes and declare on whom the election has fallen; (25) in case of an equality of votes, Governor of Bengal to determine which shall be elected; and (26) Sheriff to certify result of every election to the G. of B.

27. In case of vacancy in course of the year, the G. of B. to appoint to it a person qualified to be elected.

28. Repeals 33, G. 3, C. 52, S. 138, and transfers to Commissioners, under this Act, all the power and duties thereby given to Justices of the Peace, as well as the power and duties conferred by any Act on Commissioners.

29. Assessments.—Justices to make a quarterly assessment on owners at rate of 6¼ per cent. or one anna per Rupee on gross rental or estimated rental.

30. Commissioner appointed by Governor to be President, who shall have a casting vote, in his absence the Commissioners to appoint a President; two Commissioners necessary to constitute a meeting.

31. Commissioners to be paid salaries not exceeding 250 Rupees monthly out of local taxes.

32. Commissioners to appoint Secretary, Assessors, Collectors, Surveyors, Inspectors, Appraisers, Bailiffs and other necessary officers, with salaries, and removeable at pleasure, subject in case of the Secretary to the approval of the Governor.

33. All rates and taxes and penalties imposed prior to this Act under colour of prior Acts to be paid or levied.

34. Owners of houses, &c., to pay assessments.

35 Where the ownership of house and of the land on which it is built is vested for the time being in different persons, such may be separately assessed in respect of his own interest.

36. Justices may omit from assessment tenements of very small value except where several belonging to one person they can be assessed together.

37. Houses, &c., vacant for 60 successive days in one quarter, the assessments thereof shall be remitted for such quarter, if specified notice is given.

38. First assessment under this Act to be for February, March and April, 1852, and future assessments to be made prospectively.

39, 41. Assessments may be made by any Justice but must be confirmed at subsequent meeting of Justices, and shall be entered in books, which (41) shall be open to inspection.

40. Justices to give 14 days' notice of meeting to confirm assessment, and persons objecting to it may appeal to such meeting, when Justices may confirm or amend assessment.

41. Ante 39, 41.

42, 43, 44, 45. Taxes to be due at the end of the quarter for which they are assessed; and (43) when due, bill thereof in form A. to be sent to person liable; and (44) when in arrear, may be demanded in form B., and if not paid, summons may be issued in form C.; and (45) Commissioners may adjudicate case on due day for hearing summons.

46. Justices or Commissioners may summon in form D., persons to give evidence of value of houses, &c., and may examine such persons, who shall be liable to penalty not exceeding 100 rupees for giving evasive answers, &c., or refusing to answer, &c.

47. Arrears of taxes and penalties may be recovered under distress warrant in form E. against any goods in Calcutta of the debtor or on any goods on the premises.

48, 49. Distraining bailiff to make inventory and give notice in form F., and (49) if warrant is not discharged goods may be appraised and sold.

50. Defaulters may also be sued for such arrears in Small Cause Court.

51. If name of owner of premises is not known process may be directed to him by specified description and served on premises, &c.

52. Distress not to be lawful *ab initio* for any mere irregularity in previous proceeding.

53. Commissioners subject to approval of Governor of Bengal to make rules for regulating proceedings, &c.

54. Goods of owners may be distrained any where, and names of owners need not be specified in assessment or any kind of process against them; but description of premises shall be sufficient.

55. All goods on the premises of any person whatever may be distrained for rates and taxes, and owner of such goods, if occupier, may deduct amount from his rent, and if not occupied may sue owner.

56. On payment of fee of four annas every person entitled to have from Commissioner's Office Certificate of last payment of assessments.

57. Goods concealed in zenana seizable only by special order of Commissioners.

58. Wilful obstruction, &c., given to officer in execution of duty, subject to penalty not exceeding 50 rupees.

59. Commissioners to sue and be sued in name of Secretary, but no execution to go against Secretary till six months after notice of final judgment, &c.

60. Secretary whether plaintiff or defendant to be a competent witness.

61. No writ or process to be issued against any Commissioner or officer, &c., until after one month's notice of cause of action stating name, &c., of attorney, and at trial no evidence to be given of cause not mentioned in notice, and every action to be brought within three months next after cause of action accrued, &c.

62. Neither Commissioners nor their Secretary or servants to be liable to any action, claim or demand in respect of any contract *bonâ fide* entered into by them or any of them or of any matter or thing done in execution of this Act.

63, 64. In every such action, defendant may plead general issue and give special matter in evidence; and (64) Commissioners and their servants to have costs as between attorney and client, if successful.

65. Defines the purposes to which taxes may be applied.

66. Interpretation clause and Schedules.

For constituting Commissioners for the improvement of the Town of Calcutta.

Whereas Act XVI. of 1847, for constituting Commissioners for the Improvement of the Town of Calcutta has been found inconvenient and ineffectual for the intended purposes thereof, it is enacted as follows:

I. Act XVI. of 1847 is repealed, except as to anything done, or forborne to be done, under the said Act before the passing of this Act, but not so as to revive Act XX. of 1840. Provided always, that the taxes leviable under Act XVI. of 1847, on the owners or users of Carriages, Carts, and Horses, may still be assessed and imposed on such owners or users for the last Quarter or part of a Quarter previous to the passing of this Act; and all taxes and arrears of taxes, assessed and imposed on the owners or users of Carriages, Carts, and Horses under Act XVI. of 1847, and not collected at the time this Act comes into operation, may be levied and recovered as if the said Act XVI. of 1847 were not repealed.

II. The scheme of election agreed upon by the owners and occupiers of assessed houses, buildings, and lands in each division of the Town, and the rules made by the Commissioners, severally approved by the Deputy Governor of the Presidency of Fort William in Bengal and President of the Council of India in Council, in pursuance of the said Act, are rescinded and annulled. Provided always, that all taxes and arrears of taxes assessed and imposed on the owners or users of Carriages, Carts, and Horses under Act XVI. of 1847, and Section I. of this Act, and not collected at the time this Act comes into operation, may be levied and recovered as if the said Rules were not repealed.

III. For the purposes of this Act the Town of Calcutta shall be divided into two divisions, that is to say, a Northern and Southern Division, by a line passing from the river Hooghly at the old Fort Ghaut along the centre of Fairlie Place, Clive Street, the street on the Northern side of Tank Square, Loll Bazaar, Bow Bazaar, and Boitaconnah; or such other two divisions as the Governor of the Presidency of Fort William in Bengal, from time to time, may appoint; and whenever any such new division shall be made, the provisions of this Act, with respect to the divisions herein defined, shall be deemed to apply thenceforth to such new divisions.

So much as relates to the electing and time of holding office, repealed by Act XXVIII., 1854.

Generally repealed by Act XXVIII., 1856.

BOMBAY.—LAND TITLES.—INAM COMMISSIONERS.

ACT NO. XI. OF 1852.

[*Passed on the* 13*th February*, 1852.

Recites expediency of providing means of settling claims against Government in certain districts: and that rules of Bombay R. 17, 1827, Chap. 9, 10, and R. 6, 1833, Cl. 1, do not apply to districts not under Government Regulations: enacts—

1. No order of Government regarding title to lands in any of the non-regulation districts shall be questioned in any Court of law on ground of inconsistency with this Act.

2, 3. Governor of Bombay may appoint in recited districts an Inam Commissioner with assistants: who (3) shall discharge their duties according to rules in Schedule to this Act.

4. Claims to exemption shall be determined according to Rules in Schedule B.

5. Each Inam Commissioner to have same authority for examination of witnesses and taking evidence and inflicting penalties as the Civil Courts.

6. Bribery, extortion and generally all acts of abuse under the Commission shall be punishable as criminal offences without prejudice to civil remedy.

7. No decision of Inam Commissioner, &c., shall be questioned in Court of law.

Schedule A. Rules for defining the duties of each Inam Commissioner and his assistants.

Rule 1. Defines the functions of the Inam Commissioner and his assistants.

Rule 2. Gives appeal against orders of Assistant Commissioner.

Rule 3. And subsequent rules prescribe the mode of proceeding to establish claim.

Schedule B. Rules for adjudication of titles to estates claimed as Inam.

Rule 1. Confines all Inams already declared permanent by competent authority since the introduction of the British Government, and provides in what way competency of officer shall be decided if questioned.

Rule 2. Land to be hereditary if expressly made so by Sunnud, provided, (1) that Sunnud was made by competent authority; (2) that no illegal conditions are attached to the tenure; and (3) that it was not revoked, &c.

Rule 3. An uninterrupted holding for 60 years before the introduction of British Government, to establish a prescription, provided there has been a male heir in possession all the time. The right not to descend on heirs by adoption, nor on female heirs.

Rule 4. Lands held for 40 years in the male line to continue to be held for one more generation; but not by an adopted heir; (1) what shall be sufficient proof of authorized possession; (2) claim to be allowed unless the grounds of it be disproved; and (3) what shall be deemed the time of the introduction of British Government.

Rule 5. None so numbered.

Rule 6. Exemptions not protected by above rules to be abolished on demise of incumbent; and (1) *bonâ fide* holder to be deemed incumbent, (2) this privilege not to extend to persons holding by fraud.

Rule 7. Lands held for support of Mosques, &c., not to be resumed, (4) if they have been enjoyed for 40 years; (5) what shall be deemed sufficient proof of enjoyment; (6) but this rule not to apply in favor of private holdings, (7) see the provision.

Rule 8. Lands held under an official tenure intended to be permanent not to be resumed; but this rule is subject to several complicated provisions, not capable of abridgment.

Rule 9. On resumption of lands a moiety may be continued to widows of last incumbent, &c., in case of destitution.

Rule 10. Makes discretionary with Government to apply these rules to certain specified kinds of lands.

Rule 11. Empowers the G. in C. to relax the rules; who also shall interpret them.

An Act for the Adjudication of Titles to certain Estates claimed to be wholly or partially Rent-free in the Presidency of Bombay.

Whereas in the Territories of the Deccan, Kandeish, and Southern Mahratta Country, and in other districts more recently annexed to the Bombay Presidency, claims against Government on account of Inams and other Estates wholly or partially exempt from payment of Land Revenue are excepted from the cognizance of the ordinary Civil Courts, and incapable of being justly disposed of under the Rules for the determination of Titles, and the Rules of Procedure contained in Chapters IX. and X. of Regulation XVII. of 1827, of the Bombay Code, and their Supplements; and whereas it is desirable that the said claims should be tried and determined without further delay, it is declared and enacted as follows:

I. The Rules in Chapters IX. and X. of Regulation XVII. of 1827, and in Clause 1 of Regulation VI. of 1833, of the Bombay Code, do not apply to any of the Districts of the Bombay Presidency which were not brought under the General Regulations of Government by Regulation XXVIII. of 1827, of the Bombay Code; and no order hitherto passed regarding the continuance or resumption of lands in any of the said Districts held or claimed from Government as wholly or partially free of assessment, shall be liable to be questioned in any Court of Law, on the grounds

of any interpretation or construction of the Law, which may be inconsistent with the declarations made and the rules prescribed by this enactment.

II. The Governor of Bombay in Council may appoint in any Zillah or other division of the Territories subject to the Presidency of Bombay, which were not brought under the General Regulations of Government by the said Regulation XXVIII. of 1827, an Inam Commissioner with so many Assistants, and such subordinate Establishment, as may be necessary for the purposes hereinafter mentioned.

III. The duties of each Inam Commissioner and his Assistants shall be discharged according to the Rules in Schedule A, annexed to this Act.

IV. In the adjudication of claims to exempt lands or interests therein, the titles of claimants shall be determined by the Rules in Schedule B, annexed to this Act.

V. Each Inam Commissioner and his Assistants shall have the same authority to procure the attendance of witnesses, and to take evidence, as now is, or from time to time may be, by Law vested in the ordinary Civil Courts: and so far as concerns the penalties for not giving evidence, for false testimony, for resistance of process, contempts, and other like matters, connected with cases under cognizance by any one of the said Officers, his Office shall be held to be a Court of Civil Jurisdiction of the same authority as the superior Civil Court of the Zillah or District in which his Office from time to time shall be established. Provided that all complaints against, or appeals from the proceedings of the Inam Commissioner or any of his Assistants in exercise of the authority conferred on them respectively by this Section, shall be made under the second Rule of Schedule A, annexed to this Act, and shall not be cognizable by any other authority or in any other manner than as therein specified.

VI. Bribery, extortion, and generally all acts of abuse, or misapplication of authority, or other misconduct, committed by any Officer belonging to the Establishment of the Inam Commission, or temporarily employed therein under the provisions of this enactment, shall be punishable as criminal offences with fine and ordinary imprisonment without labour for a period not exceeding five years, and the receipt of a present, directly or indi-

rectly, by any such Officer from any person against whom or in whose behalf he may be officially employed, shall be considered extortion. And no penalty or punishment adjudicated under this Clause shall preclude any other Civil prosecution to which the offender may be liable.

VII. No decision or order of the Inam Commissioner, or of any of his Assistants, or of the Governor in Council, under the provisions of this enactment, so long as the same shall be in force under such provisions, shall be questioned or avoided in any Court of Law; and no Commissioner or Assistant Commissioner, or other person acting under the provisions of this Act, shall be liable to be sued in any Civil Court for any act *bonâ fide* done or ordered to be done by him in pursuance of the said provisions.

SCHEDULE A.

Rules for defining the Duties of each Inam Commissioner and his Assistants.

1. The duty of the Inam Commissioner and his Assistants shall be to investigate, in the manner prescribed by this enactment, the titles of persons holding or claiming against Government the possession or enjoyment of Inams or Jagheers, or any interest therein, or claiming exemption from the payment of Land Revenue, and generally to act according to the instructions of Government in all matters not specifically provided for in this enactment.

2. All orders of the Assistant Commissioners shall be appealable to the Inam Commissioner, who shall also have the authority of revising and of modifying, reversing or annulling, if necessary, their orders and proceedings, and the orders and proceedings of the Inam Commissioner shall be in like manner appealable to, and subject to modification, reversal, or annulment by the Governor of Bombay in Council, whose orders shall in every case be final.

3. The Inam Commissioner or his Assistants shall receive from the persons holding or claiming to hold lands or any interest therein exempt from the payment of Revenue, statements explaining the nature of the title by which the lands or interests are so held, and shall take and record the evidence offered in support of such statements.

4. These statements may be received, either directly by the Officers of the Inam Commission, or through the medium of the Revenue Authority of the Talooka, in which the land or interest so held or claimed as exempt is situated, or in which the alleged proprietor resides, without any previous procedure, except a general invitation to such landholders of a District who shall hold or claim to hold lands exempt as aforesaid to state the nature of their titles.

5. But when such general invitation is not sufficiently attended to, a notice may be issued to any party holding or claiming to hold any lands or any interest therein wholly or partially exempt as aforesaid, requiring him personally, or by his Agent, to shew his title. The notice issued in such cases shall state the nature of the investigation which is intended, and shall call upon the alleged proprietor of the exempt lands or interests held or claimed to be held exempt as aforesaid, to attend either personally or by an authorized Agent, at a specified place, and within a specified period (which shall never be less than two months from the date of the notice being served), to explain the nature of his title to hold such lands or interest exempt as aforesaid, and to produce all the evidence forthcoming to prove it. The notice shall further explain that a failure to comply with its terms will render the land, or interest to which it relates, liable to attachment.

6. The notice shall be served upon the party holding or claiming to hold the land or interest exempt as aforesaid, or, if his place of residence be not known, upon the person acting for him, or in default of such, upon the person in charge of the land or interest.

7. If such persons cannot be found, a notice shall be posted in the Office of the Native Revenue Officer of the District, and in the Chouree or most public place of the village, where the land or interest under inquiry is situated, calling on any person who may claim as proprietor to appear, either personally or by his Agent, to prove his title within six months from the date of the notice, under penalty of the attachment of the land or interest, and on failure of the appearance of a claimant, the land or interest shall be liable to attachment.

8. The attachment provided for by Rules 5 and 7 shall be

enforced by the Collector or Chief Revenue Authority of the District in which the land to which it relates is situated, at the written requisition of the Inam Commissioner or his Assistant, which shall be a sufficient warrant to the Collector for the attachment of the land, and for the collection of the rents accruing therefrom on account of Government during its attachment.

9. As soon as possible after the receipt of the statements in each District, and of the evidence by which they are supported, they shall be tested by the entries in the Government accounts and State records, and by any other evidence procurable, whether in favor of Government or of the claimants, and decisions shall then be passed on them as to the continuance, resumption, or full or partial assessment of the lands.

10. In cases where the notices provided for in Sections V. and VII. fail to procure the attendance of the persons to whom they are addressed, and no claimant appears to prosecute his claim, the Commissioner or Assistant Commissioner shall proceed to ascertain the facts of the case from such evidence as may be forthcoming or procurable, and shall pronounce such decision thereupon as to him shall seem just regarding the lands or interests to which the notices referred.

11. An attachment enforced under Rule 8 shall be removed by the Collector or Chief Revenue Authority by whom it was made, on receipt of a communication from the Inam Commissioner or his Assistant, certifying that he considers the attachment to be no longer necessary; but the rents collected from the land during its attachment shall in no case be restored to the alleged proprietor, except under the general or special instructions of Government.

12. Certified copies of decisions, made according to the provisions of Rule 9, shall be delivered as soon as possible after each decision is passed, to the person on whose claims the decision shall have been pronounced, or their agents; and copies of all decisions made in the absence of any claimant, according to the provisions of Rule 10, shall be sent to the Mamlutdar, or other Revenue manager of the talook in which the lands to which they relate are situated, who shall deliver them to the parties affected by them, should they be discoverable, or other-

wise cause them to be publicly posted in the village to which the lands in question belong.

13. Decisions, affecting any lands or any interests therein, passed under this enactment, shall be carried into execution by the Collector or Chief Revenue Authority of the District in which the lands to which they relate are situated, at the requisition of the Inam Commissioner or his Assistant, in any manner which may, from time to time, be prescribed by the Governor of Bombay in Council.

14. In all cases where a person may be desirous of appealing against any decision of the Inam Commissioner or his Assistants, he shall apply by a petition, addressed to the Authority by whom, according to Rule 2, his appeal is cognizable, which petition shall be presented to such Authority within one hundred days from the date of the decree appealed against, a copy of which must accompany the petition of appeal, and no appeal which is not so made shall be admitted, without proof of the existence of a just and necessary cause for its not having been preferred in due time; and it is hereby provided, that no decree passed by the Inam Commissioner or any of his Assistants, shall be liable to be set aside for want of form in the proceedings, but only for matters affecting the justice of the decision.

SCHEDULE B.

Rules for the adjudication of Titles to Estates claimed as Inam or exempt from payment of Land Revenue.

Regarding Inams already declared permanent by competent authority since the introduction of the present Government.

1. All lands held under a specific and absolute declaration by the British Government, or any competent officer acting under it, that they were to be continued hereditarily or in perpetuity exempt, wholly or partially, from the payment of Revenue, are to be so continued according to the purport of such declaration.

Provision 1*st.*—If any question shall arise as to the competency of the officer to make or give such declaration as aforesaid, the Commissioner or Assistant Commissioner is to suspend his judgment, and report the circumstances of the case to the Governor of Bombay in Council, to whom a power is hereby

reserved of determining finally whether such officer was competent to make or give such declaration, and the Commissioner or Assistant Commissioner, upon receiving the determination of the said Governor in Council, shall decide accordingly.

Regarding claims to personal Inams, not yet adjudicated under the present Government.

2. Any land held under a Sunnud declaring it to be hereditary, shall be so continued according to the terms of the Sunnud.

Provision 1st.—Provided that the grant was either made, or specifically recognized, by authority competent to alienate Government Revenue in perpetuity, the question of which recognition and competency is to be referred to and determined by Government in the manner prescribed by Provision 1st, Rule 1.

Provision 2nd.—And provided that there be nothing in the conditions of the tenure which cannot be observed without a breach of the laws of the land, or the rules of public decency.

Provision 3rd.—And provided that the grant was not afterwards revoked or disallowed, or an alteration of its terms ordered or recognized by a competent authority.

3. All lands uninterruptedly held as wholly or partially exempt from assessment for a period of sixty years before the introduction of the British Government, and then in the authorised possession of a grandson in male descent, or male heir of the body of such grandson of the original grantee, shall continue to be so held so long as there shall be in existence any male heir of the body of the person who was incumbent at the introduction of the British Government, tracing his lineage from such incumbent through male heirs only.

4. All lands uninterruptedly held as wholly or partially exempt from assessment, for a period of forty years before the introduction of the British Government, and then in the authorised possession of a son, or male heir of the body of a son of the original grantee, are to be continued for one succession further than that of the person who was incumbent at the introduction of the British Government, that is, until the death of his last surviving son.

Provision 1st.—The authorized possession contemplated by Rules 3 and 4 does not involve the necessity of proving any

specific authority from, or recognition by, the Government or paramount power. The mere entry of the holding, as continued in the genuine accounts of the District Officers (even in those not audited and passed by the Government of the time being), will be sufficient to bring it under the heads of "uninterrupted" and "authorized," so far as regards the purposes of this Rule; provided only that there are no entries in the Collectorate accounts which shew that the holding of such lands exempt as aforesaid must have been unauthorized by the Government or paramount power.

Provision 2nd.—If there be not evidence forthcoming to disprove a claimant's assertion that his holding has been undisputedly enjoyed for the number of years and descents requisite to fulfil the conditions of Rules 3 and 4 respectively, his prescriptive rights shall be admitted.

Provision 3rd.—The introduction of the British Government is to be reckoned from the time the East India Company became the Government or Paramount Authority over each District as regards its Inams. In the Territories ceded by or conquered from the Peshwa, therefore, whether Khalsat Mahals or Serinjams, &c., held exclusive of Inams, &c., the introduction of the British Government will date from the close of that of the Peshwa. But in case of the lapse of an independent principality, or of a jagheer more ancient than the Peshwa's Government, and over the Inams of which he did not claim any authority, the introduction of the British Government should be reckoned only from the date at which the general management of the Districts may have come into the hands of the Company, and in case any question shall arise as to the precise date when the East India Company became the Government over any district, or when the general management of any district came into their hands, such question shall be referred to and determined by Government in the manner prescribed by Provision 1st, Rule 1.

6. Land held as wholly exempt from payment of Revenue, or on partial assessment, the possession of which is not continuable under the preceding Rules, is to be resumed on the demise of the incumbent.

Provision 1st.—In case the incumbent at the time of the introduction of the British Government may have died, the permission

to hold for life is to be extended to the person in whose name the land may be continued, when the investigation is commenced, if there be no fraud apparent, nor other reason for withholding this indulgence.

Provision 2nd.—When land is evidently held by fraud recently committed (as when an Inam which was resumed under the late Government has been re-occupied under the present Government without authority, or as when a pretended Inam is found to have originated since the introduction of this Government with the connivance of District or Village Officers), it shall be at once resumed, not being continuable under this or any of the preceding Rules.

Regarding claims to Inams apparently permanent by the nature of the objects for which they are held, and not merely personal.

7. All lands held for the support of Mosques, Temples, or similar Institutions, of the permanent character of which there can be no doubt, are to be continued permanently, even though their permanent continuance may not have been expressly provided for when they were granted.

Provisions 1st, 2nd, and 3rd.—The same as the corresponding Provisions of Rule 2 of this Schedule in those cases in which Title Deeds or other Records proving the circumstances of the original grant, or its specific recognition by competent authority, are forthcoming.

Provision 4th.—When there is no proof forthcoming to shew whether or not an Inam, coming under the Provisions of this Rule, was granted, or even specifically recognized by a competent authority, still, if it has been undisputedly enjoyed for a period of forty years before the introduction of the present Government, it shall be permanently continued and enjoyment proved by the mere entry of the Inam, as continued in genuine accounts of the District Officers (even in those not passed by the Government of the time being), is to be considered sufficiently "uninterrupted" to give an Inam the benefit of this provision, if there be no entries in the Government accounts which shew that it must have been unauthorized by them.

Provision 5th.—If the forthcoming records do not go far enough back to test the existence of enjoyment of the duration contemplated in Provision 4th as establishing full prescriptive title in such Inams, still, if so far as they do go, they are not

opposed to the claimant's assertion that sufficient enjoyment has taken place, the prescriptive title of the Inam shall be admitted according to his assertions, unless there be other evidence forthcoming to disprove them.

Provision 6th.—The peculiar advantages of this Rule shall not apply to the holdings of individuals in their own names for the performance of ceremonial worship, claims to which must be decided under the Rules for personal claims.

Provision 7th.—When claims of the denomination coming under this Rule are found to be unsupported by proof of original valid title, and are proved void of sufficient prescriptive enjoyment, they are to be adjudicated according to Rule 6.

8. All land authorizedly held by an official tenure which it is evident from local usage was meant to be hereditary, and has been so considered heretofore, even though there be no Sunnuds declaring it to be so,—for instance, Inams which form the authorized emoluments of any hereditary office, as of Kazees, Village Joshees, &c., and are not merely personal,—are to be continued permanently.

Provisions 1st, 2nd and 3rd.—The same as the corresponding Provisions of Rule 2 of this Schedule in those cases in which Title Deeds or other Records, proving the circumstances of the original grant, or its specific recognition by competent authority, are forthcoming.

Provision 4th.—When there is no proof forthcoming to shew whether or not an Inam, coming under the provisions of this Rule, was granted or even specifically recognized by competent authority, still if it has been undisputedly enjoyed as an official and not merely personal holding from the earliest period to which the forthcoming evidence does relate, it shall be continued permanently as official emolument, unless the claimant's own statement renders this course improper.

Provision 5th.—The provisions of this Rule are not in any way to apply to emoluments continued for service performed to the State, as the Service Wuttuns of Desaees, Surdesaees, Nargowdahs, Deshpandes, Patells, Coolkurnees, Mhars, Tulwars, whose claims are to be disposed of according to the Rules which are or may be established for the regulation of such holdings.

Provision 6th.—It is to be understood that mere length of enjoyment of land as Inam by an official person is not of itself sufficient to entitle a claim to be brought under this Rule.

Provision 7th.—If a holding, claimed under this Rule, be found incapable of permanent continuence under it, the claimant shall be allowed the advantages of any of the preceding Rules of this Schedule which may be applicable to his case.

Regarding Provision for the Widows of the last incumbents of resumed holdings.

9. On the resumption of any lands under the Rules of this Schedule, a moiety, or other portion, may be continued to the Widows of the last incumbents during their lives, in cases of proved poverty and destitution.

Provision 1st—In the case of a holding, which is recognizable as an hereditary personal Inam, the widow of a proprietor who dies without surviving male issue, or other heirs to whom his Inam will of necessity descend, is by right his sole heir, and during her life, the Inam cannot be regarded as having lapsed to Government: it should therefore, in such a case, be continued undiminished during the widow's life.

Regarding the exception of certain tenures from the application of these Rules.

10. These Rules shall not be necessarily applicable to Jagheers, Serinjams, or other tenures for service to Government, or tenures of a Political nature, the titles and continuance of which shall be determined as heretofore under such Rules as Government may find it necessary to issue from time to time.

Regarding the modification and interpretation of these Rules.

11. Any of these Rules may be relaxed in favour of claimants under instructions from the Governor of Bombay in Council, in whom shall also be vested the power of interpreting the precise meaning of any of the Rules respecting which a question may arise.

Supplemented by Act I., 1863, of the Bombay Council.

CALCUTTA.—MUNICIPAL IMPROVEMENTS.

Act No. XII. of 1852.

[*Passed on the 20th February*, 1852.

1. Repeals Act 2, 1848, and Bye-laws made under it. Act 24, 1840, not revived.

2. Commissioners may nominate Surveyors, &c., subject to approbation of G of B.

3. Vests the management and control of all streets, &c., and public tanks, &c., in the Commissioners.

4. Empowers the Commissioners to make, alter, stop up, &c., streets giving compensation to owners injured thereby, &c.

5. Empowers the Commissioners to pave, water, &c., streets, and excavate tanks, &c.

6. Empowers Commissioners to purchase or take on lease lands, &c., for water works, &c.

7. Empowers the Commissioners to sell or dispose of lands or other property acquired by them, &c.

8. Empowers the Commissioners in relation to sewers, drains, stagnant pools, ditches, &c.

9. Empowers the Commissioners to enter and examine private lands for the purpose of carrying into effect their powers with respect to drains, &c.

10, 11. Empowers the Commissioners to fence up ruinous and dangerous buildings, &c., and to take them down in case of need; and (11) to sell the materials, &c.

12. Empowers the Commissioners to make reservoirs, canals, aqueducts, &c., in Calcutta.

13. Empowers the Commissioners, Surveyors, &c., for the construction of aqueducts, to do all necessary acts out of Calcutta as they might do in Calcutta.

14. Empowers the Commissioners to contract for the execution of public works; but the Commissioners, &c., not to have any interest in such contract, &c.

15. Empowers the Commissioners to contract for a supply of water, and may lease water-works, &c., belonging to the Commissioner, &c.

16. Empowers the Commissioners to enter on lands and temporarily deposit thereon materials for public works, &c.

17. Requires the Commissioners when executing works and temporarily stopping up roads, &c., to provide other roads, &c., temporarily.

18. Requires the Commissioners to make compensation out of the taxes for damage done in execution of powers.

19, 20. Empowers the Commissioners to direct prosecution for penalties, &c., under this Act; and (20) to prosecute by indictment in certain cases.

21. Empowers the Commissioners and their servants to arrest any unknown person without summons, for any offence against this Act.

22. Empowers the Commissioners and every person appointed by them to enter bazaars and shops used for sale of meat, &c., and examine any animal, carcase, &c., and seize same if unfit for food.

23, 24, 25, 26, 27, 28. Empowers the Commissioners to remove obstructions on streets, &c., and (24) to fill up unwholesome tanks; and (25) to affix on houses the names of streets; and (26) to kill dogs; and (27) to repair streets; and (28) to shore up adjoining houses and temporarily stop ways.

29, 30, 31, 32, 33. Empowers Commissioners to light the town; and (30) to keep the town clean; and (31) to provide traps, &c., for drains and

prevent effluvia from rising; and (32) to shut up burial grounds; and (33) prohibits intra-mural interments and the establishment of any new burial grounds without consent of the Commissioners.

34. Protects the Commissioners and their officers and servants from actions till after one month's notice, and empowers them to tender amends, and limits the time for bringing the action to 3 months after cause of action.

35. No contract of the Commissioners, &c., nor act done by them, shall bring on them any liability if the contract was made or done *bonâ fide* by them.

36. Vests streets, drains, &c., and all the municipal property in the Commissioners.

37. Nuisances at common law or under the Act, may be prosecuted notwithstanding the Act.

38, 39. Provides for branch drains being made into the public drains by private persons; or (39) being made by the Commissioners by contract with private persons.

40. Requires notice to be given to Commissioners of intention to construct any new buildings, &c., contiguous or near the street.

41. Prescribes a penalty on conviction before J. P. of offences specified in 32 clauses, viz., (1) throwing dirt, &c., (2) broken bottles on street; (3) keeping dirt, dung, &c., in houses for more than 24 hours; (4) neglecting to keep private tatties, drains, &c., clean; (5) suffering house to be in filthly unwholesome state; (6) allowing offensive liquids to drain into tanks, &c., (7) keeping common tatty, &c., without license; or (8) suffering such tatty, &c., to be in filthy state; (9) destroying, &c. lamps, &c., (10) injuring streets, pavements, &c., (11) taking down boards, &c., put up by Commissioners; (12) carrying filth through streets, &c., except after midnight; (13) bathing in public streets; (14) washing animals in tanks, &c., (15) indecently exposing the person; (16) allowing water to fall on the streets and not altering direction thereof; (17) continuing projections over street, or (18) setting them up; (19) washing carriages in the streets; (20) setting up scaffolding without license; (21) not lighting licensed obstructions; (22) building wall in street; (23) exposing goods for sale in street; (24) cleaning grain, &c., in street; (25) leaving carriages, &c., in streets; (26) discharging fireworks, &c.; (27) beating sounding instruments, &c.; (28) affixing bills, &c., to walls; (29) exposing decayed food, &c.; (30) slaughtering animals in street; (31) having bazaar, &c., in filthy state; (32) keeping swine, &c.

42. Empowers the Commissioners, &c., to set apart ghauts for bathing on banks of river, and prohibits other use of them.

43. Empowers Commissioners, &c., to authorize street illuminations.

44. Requires owners, &c., of bazaars, markets, &c., to register same.

45. Prohibits using new slaughtering houses without consent of Commissioners.

46. Requires markets, tanneries, slaughter houses, &c., to be sufficiently drained.

47. Imposes a penalty on the establishment of tanneries, &c., within the town.

48. Directs that all doors and gates shall open inwards and not on public street.

49. Requires houses, &c., to be numbered by owners, &c.

50. Requires occupiers of certain houses to keep a lamp outside the same, &c.

51. Person continuing a nuisance 7 days after conviction to be punishable again.

52. Persons obstructing Commissioners or their officers to be liable to penalty.

53. Penalty not to be enforced, unless complaint is made within 3 months.

54. Directs how damages and costs under this act may be ascertained by arbitration, &c.

55. Commissioners to publish short particulars of certain offences and penalties.

56. Penalties not otherwise provided for, may be recovered before Magistrate, &c.

57. Wherever distress may be made, goods distrained may be sold or penalties may be recovered in Small Cause Court.

58. Distress not to be unlawful for want of form.

59. Penalties may be awarded half to the informer, the rest to the Commissioners.

60. Penalty not to bar claim of injured party for compensation.

61. Empowers Justices to summons witness, &c.

62. Interpretation clause.

An Act to repeal Act No. II. of 1848, and to confer certain powers on the Commissioners for the improvement of the Town of Calcutta.

Whereas by Section LXV. of Act No. X. of 1852, it is, among other things, enacted, that certain funds therein mentioned should be applied by the Commissioners for the Improvement of the Town of Calcutta in cleansing, improving, and embellishing the said Town: and whereas it is expedient that the said Commissioners should be invested with further powers for the effectual accomplishment of the purposes aforesaid, it is hereby enacted as follows:

I. Act II. of 1848, and the Bye-Laws made in pursuance thereof, and the Regulation for the Good Order and Civil Government of the Settlement of Fort William in Bengal, passed in Council on the 28th day of October, 1814, are hereby repealed. Act X. of 1852, repealing Act XVI. of 1847, shall not be construed so as to revive Act XXIV. of 1840.

Repealed by Act XIV., 1856, except section 50, which has since been repealed by Act XXVIII., 1856, and except as to repealing provisions.

CALCUTTA POLICE.

Act No. XIII. of 1852.

[*Passed on the 27th February*, 1852.

1. Repeals Act 21, 1839, S. 8, and specified regulations and ordinances.

2. Empowers J. P. to make order of maintenance for wife or children.

3. Persons in possession of property suspected to be stolen, may be convicted if they cannot give a satisfactory account of it.

4. Persons in possession of stolen property having reasonable cause to believe it stolen, guilty of misdemeanour.

5, 6. Directs when search warrant may be granted to search for stolen property, and (6) in certain cases Police officers may search without warrant.

7, 8, 9. Extends to property worth 50 rupees, the jurisdiction given by Act 21, 1839, to Justices; and (8) extends the jurisdiction of Justices to try receiver, and (9) accessories may be convicted on confession, &c.

10. Boys under 16 may, for petty larceny, &c., be whipped.

11. Assault, forcible entry, or other offence with violence, not being felony, how punishable.

12. After recent assault, offender may be apprehended without warrant

13. Women and female children seduced or enticed away for specified purpose, may be restored by J. P. to persons entitled to have them.

14, 15, 16. Prohibits the keeping of houses, &c., of entertainment, &c., without license, and (15) Justices are required to hold Sessions for licensing such houses; and (16) licensed keepers breaking conditions of license to forfeit same.

17. Persons keeping houses of entertainment, &c., and permitting disorder or gaming therein, or harbouring seamen, &c., to be fined, &c.

18. Shops, &c., for sale of liquors, &c., not to be opened before 6 a.m. nor after 9 p.m.

19, 20. Prohibits introduction of spirituous liquors into Fort William without license; or (20) into the Great Gaol or House of Correction.

21. Persons in custody making escape, to be punished.

22. Persons found drunk, &c., in streets, to be fined.

23. Persons found between sunset and sunrise armed with dangerous instruments, &c., loose, idle and disorderly persons, reputed thieves, &c., may be arrested without warrant, &c.

24. Prohibits begging or exposure of person to excite charity, &c.

25, 26. Prohibits furious riding or driving, &c., and (26) driving without lamps after or before certain hours.

27. Empowers Justice, on information, to authorize Police to enter houses suspected to be common gaming houses, and to take specified means for suppressing same.

28. Proof of playing for stakes not necessary in support of information for gaming.

29. Finding in house cards, dice, and other instruments of gaming, to be *primâ facie* evidence of house being gaming house.

30. Prohibits gaming in public streets.

31, 32. Prohibits using false weights, scales, measures, &c., and (32) empowers police to seize the same.

33. Empowers Justice to issue warrant for apprehension of deserting seamen, &c.

34. Prohibits private persons carrying Sword, Spear, Gun, &c., in streets.

35. Empowers Chief Magistrate, &c., to make regulations for keeping ghats and public thoroughfares clear, and for processions in streets, &c.

36. Prohibits, under penalty, police officers taking bribes of any kind.

37. Repeals Act 18, 1841, S. 2, and ordinance of 8th April, 1802, and prohibits the manufacture within the town of gunpowder, &c., or having more than 10 pounds of gunpowder at one time, &c.

38, 39, 40, 41. Empowers Chief Magistrate to grant licenses for sale, and keeping in deposit, of gunpowder, &c., and (39) such license to be in force for one year, &c., and be renewable; and (40) Justice may grant warrant to search for gunpowder, &c., but (41) these provisions not to apply to Government.

42, 43. Vessels entering the Port shall deposit at Mayapore all their powder over 50 lbs. which they may retain; and (43) for infraction of this law commander to be liable to penalty.

44. Extends jurisdiction of Calcutta Justices to any sea-going vessel in river Hooghly.

45. Persons apprehended without warrant to be taken before Justice.

46, 47. Superior Police officers at Police Stations may take security for appearance of persons charged with certain offences; (47) directs the form of the security to be taken.

48. Justice may award amends to parties charged on insufficient grounds.

49, 50, 51, 52. Justice may proceed summarily for all offences under this Act; and (50) in case of non appearance after summons may in cases not of a criminal nature proceed exparte and in others issue warrant; and (51) summons may be served by leaving copy with wife, &c., and (52) Justice may at his own discretion issue warrant without previous summons.

53, 54. Empowers Justice to summons and inforce attendance of, and giving evidence by, witnesses, under penalty, for default; and also (54) to order prisoners to be brought up as witnesses or defendants

55. Penalties and forfeitures may be levied by distress and sale of goods and in certain cases on default defendant may be committed.

56. Convictions, &c., not to be quashed, &c., for default of form, but only on the merits.

57. Interpretation clause. Schedules A. and B.

An Act for consolidating and amending the Regulations of the Calcutta Police.

Whereas it is expedient to consolidate and amend divers Rules, Ordinances, and Regulations which from time to time have been

passed in Council, and registered in the Supreme Court, for the good order and civil government of the Presidency and Settlement of Fort William in Bengal, it is enacted as follows:

Laws repealed.

I. Section VIII. of Act XXI. of 1839, and the Rules, Ordinances, and Regulations for the good order and civil government of the Settlement of Fort William in Bengal, passed in Council, and registered in the Supreme Court, on the several days hereinafter mentioned, are repealed, but not so as to revive any other Rules, Ordinances, and Regulations thereby repealed.

List of Repealed Ordinances.

Date of passing in Council.	Date of Registry in the Supreme Court.
26th July, 1814.	11th November, 1814.
1st March, 1816.	26th March, 1816.
23rd March, 1816.	13th April, 1816.
14th June, 1816.	8th July, 1816.
19th October, 1816.	12th November, 1816.
28th March, 1817.	21st April, 1817.
13th January, 1818.	7th February, 1818.
9th July, 1819.	22nd October, 1819.
24th March, 1820.	17th April, 1820.
21st August, 1821.	13th November, 1821.
8th March, 1827.	27th April, 1827.

Repealed by Act XIII., 1856, except repealing sections.

STRAITS' SETTLEMENTS.

Act No. XIV. of 1852.

[*Passed on the 27th February*, 1852.

1. Extending Acts 24, 1841, and 17, 1843, to Straits' Settlements.
2. Extending provisions of above Acts relating to Supreme Court to Court of Judicature of Straits' Settlements.

An Act for extending the provisions of Acts XXIV., of 1841, and XVII., of 1843, to the Straits' Settlements.

Whereas doubts have been entertained whether Acts XXIV. of 1841, and XVII. of 1843, are in force in the Settlement of Prince of Wales' Islands, Singapore and Malacca, it is hereby enacted as follows:

I. The provisions of Acts XXIV. of 1841, and XVII. of 1843, shall be applicable and in force in the said Settlement.

II. All provisions contained in Act XXIV. of 1841, and Act XVII. of 1843, relating to Her Majesty's Supreme Courts, shall be applicable to the Court of Judicature of the said Settlement, and shall be respectively construed as if, instead of the words Her Majesty's Supreme Courts, or Her Majesty's Supreme Courts of the respective Presidencies, or the Supreme Court of each of the Presidencies, the words, "the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca," had been therein mentioned.

LAW OF EVIDENCE.

ACT NO. XV. OF 1852.

[*Passed on the* 12*th March*, 1852.

1. Repeals part of Act 7, 1844, S. 1.

2, 3, 4. Establishes the competency of parties to legal proceedings, to give evidence either *vivâ voce* or in any other manner; (3) except in criminal proceedings of all kinds, also (4) except in proceedings for adultery or breach of promise of marriage.

5. Nothing in this Act to affect Wills' Act.

6. Empowers H. M.'s Courts and Judges to compel parties to give inspection of documents, and give copies, &c., if application is made 21 days before issue joined, &c.

7. Makes proclamations, treaties and other acts of state, of all Governments, and judgments and all judicial proceedings, provable by certified copy without proof of seal or signature, &c.

8. Makes Registry of British Ships and certificates of such Registry provable either by production, copy or certificate.

9 Makes production of record of conviction or acquittal unnecessary to prove such conviction, &c., and makes certificate of clerk in court sufficient.

10. Such books and documents as are admissible in evidence on proof of their coming from the proper custody; contents thereof may be proved by examined copies of extracts.

11. Makes it a misdemeanour for any Officer to certify to false extracts or copies.

12. Empowers officers and persons of all kinds who are employed in hearing &c., evidence to administer oath to witnesses.

13. Makes it a felony to forge, &c., any authentication of documents authorized by this Act.

14. Act to come into operation from 10th April, 1852.

An Act to amend the Law of Evidence.

Whereas it is expedient to amend the Law of Evidence in divers particulars, it is hereby enacted as follows:

Repeal of part of Section I., Act VII., of 1844.

I. So much of Section I. of Act VII. of 1844, as provides that the said Act shall "not render competent any party to any suit, action, or proceeding individually named in the record, or any lessor of the plaintiff or tenant of premises sought to be recovered in ejectment, or the landlord or other person in whose right any defendant in replevin may make cognizance, or any person in whose immediate and individual behalf any action may be brought or defended, either wholly or in part," is hereby repealed.

Parties to be admissible witnesses.

II. On the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action, or other proceeding in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive and examine evidence with respect to, or concerning any suit, action, or other proceeding in any of such Courts, the parties thereto, and the persons in whose behalf any such suit, action, or other proceeding, may be brought or defended, shall, except as hereinafter excepted, be competent and compellable to give evidence, either *vivâ voce*, or by deposition, according to the practice of the Courts, on behalf of either or any of the parties to the said suit, action, or other proceeding.

Parties not compellable to criminate themselves. Husband and wife not compellable to give evidence for or against each other.

III. But nothing herein contained shall render any person, who in any criminal proceeding is charged with the commission of any indictable offence, or any offence punishable on summary conviction, competent or compellable to give evidence for or against himself or herself, or shall render any person compellable to answer any question tending to criminate himself or herself, or shall in any criminal

proceeding render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband.

Act not to apply to proceedings for adultery or to actions for breach of promise of marriage.

IV. Nothing herein contained shall apply to any action, suit, or proceeding in any Court of Common Law, or in any Ecclesiastical Court, instituted in consequence of adultery, or to any action for breach of promise of marriage.

The Wills' Act not repealed.

V. Nothing herein contained shall repeal any provision contained in Act XXV. of 1838.

Courts authorized to compel inspection of documents in actions and other proceedings whenever Equity would grant discovery.

VI. Whenever any action or other legal proceeding shall henceforth be pending in any of Her Majesty's Courts, such Court and each of the Judges thereof may respectively, on application made for such purpose by either of the litigants, compel the opposite party to allow the party making the application to inspect all documents in the custody or under the control of such opposite party relating to such action or other legal proceeding, and, if necessary, to take examined copies of the same, or to procure the same to be duly stamped, in all cases in which previous to the passing of this Act, a discovery might have been obtained by filing a bill, or by any other proceeding in a Court of Equity, at the instance of the party so making application as aforesaid to the said Court or Judge. Provided always, that every such application shall be made as aforesaid before issue joined in any such action, and twenty-one days before the trial or hearing of any other legal proceeding. [This proviso is repealed by Act II., 1855, section 52.]

Foreign and Colonial Acts of State, judgments, &c., provable by certified copies, without proof of seal or signature or judicial character of person signing the same.

VII. All Proclamations, Treaties, and other Acts of State of any Foreign State, or of the East India Company, or of any Territory under the Government of the East India Company, or of any British Colony, and all judgments, decrees, orders, and other judicial proceedings, of any Court of Justice in any Foreign State, or in any of the Territories under the Government of the East India Company, or in any British Colony, and all affidavits, pleadings, and other legal documents filed or deposited in any such Court, may be proved in any of Her Majesty's Courts of

Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, either by examined copies or by copies authenticated as hereinafter mentioned, that is to say: if the document sought to be proved be a Proclamation, Treaty, or other Act of State, the authenticated copy to be admissible in evidence must purport to be sealed with the Seal of the Foreign State, or of the East India Company, or of the Territory under the Government of the East India Company, or of the British Colony to which the original document belongs; and if the document sought to be proved be a judgment decree, order, or other judicial proceeding of any Foreign or Colonial Court, or of any Court within the Territories under the Government of the East India Company, or an affidavit, pleading or other legal document filed or deposited in any such Court, the authenticated copy to be admissible in evidence, must purport either to be sealed with the Seal of the Foreign or Colonial Court, or Court within the Territories under the Government of the East India Company to which the original document belongs, or in the event of such Court having no Seal, to be signed by the Judge, or if there be more than one Judge, by any one of the Judges of the said Court, and such Judge shall attach to his signature a statement in writing on the said copy that the Court whereof he is a Judge has no Seal; but if any of the aforesaid authenticated copies shall purport to be sealed or signed as hereinbefore respectively directed, the same shall respectively be admitted in evidence in every case in which the original document could have been received in evidence, without any proof of the Seal, where a Seal is necessary, or of the signature, or of the truth of the statement attached thereto, where such signature and statement are necessary, or of the judicial character of the person appearing to have made such signature and statement.

Registers of British Vessels and Certificates of Registry admissible without proof of Signature.

VIII. Every Register of a Vessel kept under Act X. of 1841, or under any of the Acts of Parliament relating to the registry of British Vessels, may be proved in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, either by the production of the

original, or by an examined copy thereof or by a copy thereof purporting to be certified under the hand of the person having the charge of the original, and which person is hereby required to furnish such certified copy to any person applying at a reasonable time for the same, upon payment of the sum of one Rupee; and every such Register, or such copy of a Register, and also every Certificate of Registry granted under the said Act or any of the Acts of Parliament relating to the Registry of British Vessels, and purporting to be signed as required by law, shall be received in evidence in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, as *primâ facie* proof of all the matters contained or recited in such Register, when the Register, or such copy thereof as aforesaid, is produced, and of all the matters contained or recited in or endorsed on such Certificate of Registry when the said Certificate is produced.

Where necessary to prove conviction or acquittal, not necessary to produce record, but Certificate of Clerk of Court.

IX. Whenever in any proceeding whatever it may be necessary to prove the trial and conviction or acquittal of any person charged with any indictable offence, it shall not be necessary to produce the record of the conviction or acquittal of such person, or a copy thereof, but it shall be sufficient that it be certified or purport to be certified under the hand of the Clerk of the Court or other Officer having the custody of the records of the Court where such conviction or acquittal took place, or by the Deputy of such Clerk or other Officer, that the paper produced is a copy of the record of the indictment, trial, conviction, and judgment or acquittal, as the case may be, omitting the formal parts thereof.

Examined or certified copies of documents admissible.

X. Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody, and no Statute or Act exists which renders its contents provable by means of a copy, any copy thereof, or extract therefrom, shall be admissible in evidence in any of Her Majesty's Courts of Justice, or before any person now or hereafter having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, provided it be

proved to be an examined copy or extract, or provided it purport to be signed and certified as a true copy or extract by the Officer to whose custody the original is entrusted, and which Officer is hereby required to furnish such certified copy or extract to any person applying at a reasonable time for the same, upon payment of a reasonable sum for the same, not exceeding four annas for every folio of ninety words.

Certifying a false document a misdemeanour.

XI. If any Officer authorized or required by this Act to furnish any certified copies or extracts shall wilfully certify any document as being a true copy or extract, knowing that the same is not a true copy or extract, as the case may be, he shall be guilty of a misdemeanour, and be liable, upon conviction, to imprisonment for any term not exceeding eighteen months.

Court, &c., may administer oath.

XII. All Her Majesty's Courts within the British Territories under the Government of the East India Company, and every Judge and Justice of such Courts, and every Officer, Commissioner, Arbitrator or other person, now or hereafter having, by law or by consent of parties, authority to hear, receive, and examine evidence with respect to or concerning any suit, action, or other proceeding in any of such Courts, is hereby empowered to administer an oath to all such witnesses as are legally called before them respectively.

Persons forging seal, stamp or signature of certain documents, or wilfully uttering the same, guilty of felony.

XIII. If any person shall forge the seal, stamp, or signature of any document in this Act mentioned or referred to, or shall tender in evidence any such document with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, he shall be guilty of felony, and shall, upon conviction, be liable to transportation for seven years, or to imprisonment for any term not exceeding three years, nor less than one year, with hard labour; and whenever any such document shall have been admitted in evidence by virtue of this Act, the Court, or the person who shall have admitted the same, may, at the request of any party against whom the same is so admitted in evidence, direct that the same shall be impounded and be kept in the custody of some Officer of the Court or other proper person, for such period and subject to such condi-

tions, as to the said Court or person shall seem meet; and every person who shall be charged with committing any felony under this Act may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence may be laid and charged to have been committed in the place in which he shall be apprehended or be in custody; and every accessory before or after the fact to any such offence may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence may be laid and charged to have been committed in any place in which the principal offender may be tried. [The offences in this Section are also offences in the Indian Penal Code, therefore this Section is superseded, but it is not repealed in Act XVII., 1862.

XIV. This Act shall come into operation from and after the Tenth day of April, One thousand eight hundred and fifty-two.

Act II., 1855, is an Act for the further improvement of the law of evidence.

SUPREME COURT.—CRIMINAL PROCEDURE.

ACT No. XVI. OF 1852.

[*Passed on the 12th March*, 1852.

1, 2, 3. Empowers the Court to amend the indictment for correction of variances with the evidence, not material to the merits and by which the defendant cannot be prejudiced, and to postpone trials, &c., and (2) makes the verdict and judgment valid notwithstanding such amendments; and (3) directs that in drawing up record afterwards, it shall be drawn up as amended.

4, 5, 6, 7. Directs in what manner may be drawn indictments for murder and manslaughter; and indictments (5) for forging, uttering, stealing, embezzling, destroying or concealing or for obtaining by false pretences any document; and indictments (6) for engraving, &c., the whole or part of any plates, &c., and indictments (7) in all other cases where it shall be necessary to make any averment as to any instrument, &c.

8. In indictments the intent to defraud may be laid generally, and may be proved as generally.

9. Under indictments for felony or misdemeanour defendant may be convicted of merely an attempt to commit.

10. Repeals Act 31, 1838, S. 8.

11. On an indictment for robbery defendant may be convicted only of an assault with intent to rob.

12, 13. Person indicted for misdemeanour not to be acquitted on ground that a felony is proved; and (13) indicted for embezzlement not to be acquitted on ground that larceny was proved.

14. On an indictment of two persons for jointly receiving, one of them may be convicted of separately receiving.

15. Accessories or receivers in any number may be charged with substantive felony, without principal offender, &c.

16, 17. Three larcenies may be included in same indictment; and (17) under indictment for one larceny three may be proved, &c.

18. Averments respecting money or bank-notes need not specify the amount of money or notes.

19. In indictment for perjury and false affirmations, &c., formal statement of all the proceedings connected with the perjury need not be set forth.

20. The like as to indictments for subornation of perjury.

21. Certain formal defects specified, shall not vitiate indictments.

22. Formal objections to indictment to be taken before jury sworn, and may be amended.

23. Abolishes the right to traverse, but empowers the Court to allow time or adjourn the trial.

24. Empowers defendant to plead generally *Autrefois*, *Convict* or *Acquit*.

25. Empowers the Court to add hard labour to other punishment for specified offences.

26. Interpretation clause.

27. Act to commence from 10th April, 1852.

An Act for further Improving the Administration of Criminal Justice in her Majesty's Courts of Justice in the Territories of the East India Company.

Whereas offenders frequently escape conviction on their trials, by reason of the technical strictness of criminal proceedings in matters not material to the merits of the case; and whereas such technical strictness may safely be relaxed in many instances, so as to insure the punishment of the guilty, without depriving the accused of any just means of defence; and whereas a failure of justice often takes place on the trial of persons charged with felony and misdemeanour by reason of variances between the statement in the indictment on which the trial is had, and the proof of names, dates, matters and circumstances therein mentioned, not material to the merits of the case, and by the misstatement whereof the person on trial cannot have been prejudiced in his defence, it is hereby enacted as follows:

The Court may amend certain variances not material to the merits of the case, and by which the defendant cannot be prejudiced in his defence; and may either proceed with or postpone the trial to be had before the same or another jury.

I. From and after the coming of this Act into operation, whenever, on the trial of any indictment for any felony or misdemeanour, there shall appear to be any variance between the statement in such indictment and the evidence offered in proof thereof, it shall and may be lawful for the Court before which the trial shall be had, if it shall consider such variance not material to the merits of the case, and that the defendant cannot be prejudiced thereby in his defence on such merits, to order such indictment to be amended, according to the proof, by some Officer of the Court or other person, both in that part of the indictment where such variance occurs, and in every other part of the indictment which it may become necessary to amend, on such terms as to postponing the trial to be had before the same or another jury, as such Court shall think reasonable; and after any such amendment the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects, and with the same consequences, both with respect to the liability of witnesses to be indicted for perjury and otherwise, as if no such variance had occurred; provided that, in all such cases where the trial shall be so postponed as aforesaid, it shall be lawful for such Court to respite the recognizances of the prosecutor and witnesses, and of the defendant and his surety or sureties, if any, accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence respectively, and the defendant shall be bound to attend to be tried, at the time and place to which such trial shall be postponed, without entering into any fresh recognizances for that purpose, in such and the same manner as if they were originally bound by their recognizance to appear and prosecute, or give evidence, at the time and place to which such trial shall have been so postponed. Provided also, that where any such trial shall be to be had before another jury, the Crown and the defendant shall respectively be entitled to the same challenges as they were respectively entitled to before the first jury was sworn.

Verdicts and judgments valid after amendments.

II. Every verdict and judgment which shall be given after the making of any amendment under the provisions of this Act, shall be of the same force

and effect in all respects as if the indictment had originally been in the same form in which it was after such amendment was made.

Records to be drawn up in amended form, without noticing the amendments.

III. If it shall become necessary at any time, for any purpose whatsoever, to draw up a formal record in any case where any amendment shall have been made under the provisions of this Act, such record shall be drawn up in the form in which the indictment was after such amendment was made, without taking any notice of the fact of such amendment having been made.

The means by which the injury was inflicted need not be specified in indictments for Murder and Manslaughter.

IV. In any indictment for murder or manslaughter preferred after the coming of this Act into operation, it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused, but it shall be sufficient, in every indictment for Murder to charge that the defendant did feloniously, wilfully, and of his malice afore-thought kill and murder the deceased, and it shall be sufficient in every indictment for manslaughter to charge that the defendant did feloniously kill and slay the deceased.

Forms of indictment in cases of forgery, and uttering, stealing, and embezzling, or obtaining by false pretences.

V. In any indictment for forging, uttering, stealing, embezzling, destroying, or concealing, or for obtaining by false pretences, any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy of fac-simile thereof, or otherwise describing the same, or the value thereof.

In engraving plates, &c.

VI. In any indictment for engraving or making the whole or any part of any instrument, matter, or thing whatsoever, or for using or having the unlawful possession of any plate or other material upon which the whole or any part of any instrument, matter, or thing whatsoever shall have been engraved or made, or for having the unlawful possession of any paper upon which the whole or any part of any instrument, matter or thing whatsoever shall have been made or printed, it shall be sufficient to describe such instrument, matter, or thing by any name or designation by

which the same may be usually known, without setting out any copy or fac-simile of the whole or any part of such instrument, matter, or thing.

In other cases.

VII. In all other cases, wherever it shall be necessary to make any averment in any indictment as to any instrument, whether the same consists wholly or in part of writing, print, or figures, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or fac-simile of the whole or any part thereof.

Intent to defraud particular persons need not to be alleged or proved in cases of forgery, uttering, of false pretences.

VIII. From and after the coming of this Act into operation, it shall be sufficient in any indictment for forging, uttering, offering, disposing of, or putting off any instrument whatsoever, or for obtaining or attempting to obtain any property by false pretences, to allege that the defendant did the act with intent to defraud, without alleging the intent of the defendant to be to defraud any particular person; and on the trial of any of the offences in this section mentioned, it shall not be necessary to prove an intent on the part of the defendant to defraud any particular person, but it shall be sufficient to prove that the defendant did the act charged with an intent to defraud.

A party indicted for felony or misdemeanour may be found guilty of an attempt to commit the same, and shall be liable to the same consequences as if charged with and convicted of the attempt only. No person so tried to be afterwards prosecuted for the same.

IX. And whereas offenders often escape conviction by reason that such person ought to have been charged with attempting to commit offences, and not with the actual commission thereof, it is enacted, that if on the trial of any person charged with any felony or misdemeanour, it shall appear to the jury upon the evidence that the defendant did not complete the offences charged, but that he was guilty only of an attempt to commit the same, such person shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is not guilty of the felony or misdemeanour charged, but is guilty of an attempt to commit the same, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for attempting to commit the particular felony or

misdemeanour charged in the said indictment: and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the felony or misdemeanour for which he was so tried.

Repeal of the 8th Section of Act XXXI. of 1838.

X. And whereas it is enacted by the 8th Section of Act XXXI. of 1838, that "on the trial of any person for any of the offences thereinbefore mentioned, or for any felony whatever where the crime charged shall include an assault against the person, it shall be lawful for the jury to acquit of the felony, and to find a verdict of guilty of assault against the person indicted, if the evidence shall warrant such finding": and whereas great difficulties have arisen in the construction of such enactments: for remedy thereof it is enacted that the said enactment shall be and the same is hereby repealed.

On the trial of an indictment for robbery, the jury may convict of an assault with intent to rob: no person so tried to be afterwards prosecuted for the same.

XI. If upon the trial of any person upon any indictment for robbery, it shall appear to the jury upon the evidence that the defendant did not commit the crime of robbery, but that he did commit an assault with intent to rob, the defendant shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that the defendant is guilty of an assault with intent to rob, and thereupon such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for feloniously assaulting with intent to rob; and no person so tried as is herein lastly mentioned shall be liable to be afterwards prosecuted for an assault with intent to commit the robbery for which he was so tried.

Person tried for misdemeanour not to be acquited if the offence turn out to be felony, unless the Court so direct.

XII. If upon the trial of any person for any misdemeanour, it shall appear that the facts given in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanour; and no person tried for such misdemeanour shall be liable to be afterwards prosecuted for felony on the same facts, unless the Court before which such trial may be had shall think fit, in its discretion, to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for felony,

in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanour.

Persons indicted for embezzlement, as a clerk, &c., not to be acquitted if the offence turn out to be larceny, and *vice versâ*.

XIII. If upon the trial of any person indicted for embezzlement as a clerk, servant, or person employed for the purpose, or in the capacity of a clerk or servant, it shall be proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of embezzlement, but is guilty of simple larceny, or of larceny as a clerk, servant, or person employed for the purpose, or in the capacity of a clerk or servant, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such larceny; and if upon the trial of any person indicted for larceny it shall be proved that he took the property in question in any such manner as to amount in law to embezzlement, he shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty to return as their verdict that such person is not guilty of larceny, but is guilty of embezzlement, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement; and no person so tried for embezzlement or larceny as aforesaid shall be liable to be afterwards prosecuted for larceny or embezzlement upon the same facts.

Upon an indictment for jointly receiving, persons guilty of separately receiving may be convicted

XIV If upon the trial of two or more person indicted for jointly receiving any property, it shall be proved that one or more of such persons separately received any part of such property, it shall be lawful for the jury to convict upon such indictment such of the said persons as shall be proved to have received any part of such property.

Separate accessories and receivers may be included in the same indictment in the absence of the principal felon

XV. And whereas it frequently happens that the principal in a felony is not in custody or amenable to justice, although several accessories to such felony or receivers at different times of stolen property the property of such felony may be in custody or amenable to justice; for the pre-

vention of several trials, it is enacted that any number of such accessories or receivers may be charged with substantive felonies in the same indictment, notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice.

Three larcenies from the same person within six months may be included in the same indictment.

XVI. It shall be lawful to insert several counts in the same indictment against the same person for any number of distinct acts of stealing, not exceeding three, which may have been committed by him against the same person within the space of six calendar months from the first to the last of such acts, and to proceed thereon for all or any of them.

Where a single taking is charged, the prosecutor need not elect, unless where more than three takings, or more than six months between the first and last taking.

XVII. If upon the trial of any indictment for larceny, it shall appear that the property alleged in such indictment to have been stolen at one time was taken at different times, the prosecutor shall not by reason thereof be required to elect upon which taking he will proceed, unless it shall appear that there were more than three takings, or that more than the space of six calendar months elapsed between the first and the last of such takings; and in either of such last-mentioned cases the prosecutor shall be required to elect to proceed for such number of takings, not exceeding three, as appear to have taken place within the period of six calendar months from the first to the last of such takings.

Coin and bank-notes may be described simply as money.

XVIII. In every indictment in which it shall be necessary to make any averment as to any money or any note of any bank, it shall be sufficient to describe such money or bank-note simply as money without specifying any particular coin or bank-note; and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any bank-note, although the particular species of coin of which such amount was composed, or the particular nature of the bank-note, shall not be proved, and in cases of embezzlement and obtaining money or bank-notes by false pretences, by proof that the offender embezzled or obtained any piece of coin, or any bank-note, or any portion of the value thereof although such piece of

coin or bank-note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part shall have been returned accordingly.

Simplifying indictments for perjury and other like offences.

XIX. In every indictment for perjury, or for unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously, or corruptly taking, making, signing, or subscribing any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what Court or before whom the oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate or other writing was taken, made, signed, or subscribed, without setting forth the bill, answer, information, indictment, declaration, or any part of any proceeding either in law or in equity, and without setting forth the commission or authority of the Court or person before whom such offence was committed.

As to form of indictments for subornation of perjury and other like offences.

XX. In every indictment for subornation of perjury, or for corrupt bargaining or contracting with any person to commit wilful and corrupt perjury, or for inciting, causing, or procuring any person unlawfully, wilfully, falsely, fraudulently, deceitfully, maliciously or corruptly to take, make, sign or subscribe any oath, affirmation, declaration, affidavit, deposition, bill, answer, notice, certificate, or other writing, it shall be sufficient, wherever such perjury or other offence aforesaid shall have been actually committed, to allege the offence of the person who actually committed such perjury or other offence in the manner hereinbefore mentioned, and then to allege that the defendants unlawfully, wilfully, and corruptly did cause and procure the said person the said offence, in manner and form aforesaid to do and commit; and wherever such perjury or other offence aforesaid shall not have been actually committed, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth or averring any of the matters or things hereinbefore rendered unnecessary to be set forth or averred in the case of wilful and corrupt perjury.

XXI. No indictment for any offence shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the statute," instead of "against the form of the statutes," or *vice versâ*, nor for that any person mentioned in the indictment is designated by a name of office, or other descriptive appellation, instead of his proper name, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment, or on an impossible day, or on a day that never happened, nor for want of a proper or perfect venu, nor for want of a proper or formal conclusion, nor for want of or imperfection in the addition of any defendant, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury, or spoil, in any case where the value or price, or the amount of damage, injury, or spoil, is not of the essence of the offence.

What defects shall not vitiate an indictment.

XXII. Every objection to any indictment for any formal defect apparent on the face thereof shall be taken, by demurrer or motion to quash such indictment, before the jury shall be sworn, and not afterwards; and every Court before which any such objection shall be taken for any formal defect may, if it be thought necessary, cause the indictment to be forthwith amended in such particular by some Officer of the Court, or other person, and thereupon the trial shall proceed as if no such defect had appeared.

Formal objections to indictments shall be taken before jury are sworn; Court may amend any formal defect.

XXIII. No person prosecuted shall be entitled to traverse or postpone the trial of any indictment found against him at any Session of the Peace, Session of Oyer and Terminer, or Session of Gaol Delivery; provided always that if the Court, upon the application of the person so indicted or otherwise, shall be of opinion that he ought to be allowed a further time, either to prepare for his defence or otherwise, such Court may adjourn the

Provisions as to traversing indictments.

trial of such person to the next subsequent Session, upon such terms as to bail or otherwise as to such Court shall seem meet, and may respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent Session without entering into any fresh recognizance for that purpose.

Provision as to plea of *autrefois convict* or *autrefois acquit*.

XXIV. In any plea of *autrefois convict* or *autrefois acquit* it shall be sufficient for any defendant to state that he has been lawfully convicted or acquitted (as the case may be) of the said offence charged in the indictment.

Punishment for certain indictable misdemeanours.

XXV. Whenever any person shall be convicted of any one of the offences following, as an indictable misdemeanour, that is to say,—any cheat or fraud punishable at Common Law; any conspiracy to cheat or defraud, or to extort money or goods, or falsely to accuse of any crime, or to obstruct, prevent, pervert, or defeat the course of public justice; any escape or rescue from lawful custody, on a criminal charge; any public and indecent exposure of the person; any indecent assault, or any assault occasioning actual bodily harm; any attempt to have carnal knowledge of a girl under twelve years of age; any public selling, or exposing for public sale or to public view, of any obscene book, print, picture, or other indecent exhibition, it shall be lawful for the Court to sentence the offender to be imprisoned for any term now warranted by law, and also to be, kept to hard labour during the whole or any part of such term of imprisonment.

Interpretation of terms.

XXVI. In the construction of this Act the word "indictment" shall be understood to include "information," "inquisition," and "presentment," as well as "indictment," and also any "Plea," "replication," or other pleading; and the terms "finding of the indictment," shall be understood to include "the taking of an inquisition," "the exhibiting of an information," and "the making a presentment"; and wherever in this Act, in describing or referring to any person or party, matter, or thing, any word importing the singular number or masculine gender is used, the same shall be understood to include and shall be applied to

several persons and parties as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter or thing; and the word "property" shall be understood to include goods, chattels, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed.

Commencement of Act.

XXVII. This Act shall come into operation from and after the Tenth day of April, One thousand eight hundred and fifty-two.

Repealed by Act XVIII., 1862, s. 56, except as to offences not punishable under the Indian Penal Code. Retained on account of this Exception, the scope of which is uncertain.

SUPREME COURT.—CIVIL PROCEDURE.

Act No. XVII. of 1852.

[*Passed on the 12th March*, 1852.

1, 2, 3, 4. Empowers all persons interested in any question cognizable by Supreme Court to concur in stating special case; and (2) provides for manner in which committee of lunatic may concur; and (3) married women; and (4) infants.

5, 6, 7. Special guardian of lunatic may be appointed for purpose of concurring; and also (6) guardian for infant; and (7) provides special guardian for charge of such infants.

8, 9. Prescribes a short concise method of stating special cases, and (9) requires that appointment of special guardian for purpose of concurring in case shall be shown to have been made.

10, 11. Special case to be signed by Counsel and filed, and defendants to appear, and (11) all parties to be bound by case stated.

12, 13. Directs special case to be set down for hearing; and (13) on hearing Court to give judgment, or may order amendment of case, or for reasons refuse to decide.

14. Judgment and orders on case to be sufficient warrant for all acts done in pursuance of them.

15. Empowers Court to suspend operation of its decree.

16. Declares filing of case to be lis pendens.

17. Provides for production, use and proof of documents.

18, 19, 20. Empowers Court on application of executors, &c., to order reference to master to take account of debts, &c., and report thereon, &c., and (19) provides for objection being taken to masters' report; and (20) directs mode of proceeding on such objection.

21. Empowers Court to order payment of debts found due by master's report.

22. Accounts under this Act may also be taken according to the usual function of master's office.

23. Provides for payment of contingent liability.

24. Court may restrain proceedings against executors by certain classes of persons.

25. Provides protection for executors, &c., in paying debts in certain cases.

26. Exceptions for scandal, impertinence and insufficiency in future to be heard by Court and not master.

27. Empowers the Court to receive proof by affidavit whenever it may see fit.

28, 29, 30. Empowers the Court to make general rules and orders for carrying out provisions of this Act, &c., (29) subject to disallowance by G. G. in C., and (30) in the meantime existing practice to continue.

31. Appeal, re-rehearing, and review to be allowed of all decrees, &c., under this Act.

32. Interprets certain words.

33. Act to commence from 10th April, 1852.

Schedule. Form of order of reference.

An Act to diminish the expense and delay of proceedings in Her Majesty's Courts within the Territories of the East India Company.

Persons interested in questions cognizable in Her Majesty's Courts may state special cases for the opinion of such Courts.

I. It shall be lawful for persons interested or claiming to be interested in any question cognizable in Her Majesty's Courts within the Territories of the East India Company, on the Equity, Plea, Ecclesiastical or Admiralty sides thereof respectively, and including among such persons all lunatics, married women, and infants in the manner and under the restrictions hereinafter contained, to concur in stating such question in the form of a special case for the opinion of the said Courts, and it shall also be lawful for all Executors, Administrators, Representatives, and Trustees to concur in such case.

How lunatic may concur.

II. The Committee of the estate of any lunatic interested or claiming to be interested in any such question as aforesaid may, after having been authorized in that behalf by the Court or any Judge thereof in which such special case is filed, concur in such case in his own name, and in the name and on the behalf of the lunatic.

How Married women may concur.

III. A husband interested or claiming to be interested in right of his wife in any such question as aforesaid may concur in such case in his own name and in the name of his wife where the wife has no claim to any interest distinct from her husband, and a married woman having or claiming any interest in any such question as aforesaid distinct from her husband, may in her own right concur in such case, provided that her husband also concurs therein, but nothing herein contained shall be construed so as to require the husband of a Mahomedan or Hindoo female to concur in such case.

How infant may concur.

IV. The guardian of any infant interested or claiming to be interested in any such question as aforesaid may concur in such case in the name and on the behalf of the infant, unless such guardian has an interest in such question adverse to the interest of the infant therein.

How special guardian to be appointed for a lunatic not found such by inquisition and for infant

V. It shall be lawful for the said Courts, by order to be made in the matter of any lunatic not found such by inquisition, or in the matter of any infant, upon the application of any person on the behalf of such lunatic, or upon the application of such infant, by motion or petition, to appoint any person shown by affidavit to be a fit person, and to have no interest adverse to the interest of the lunatic or infant, to be the special guardian of such lunatic or infant for the purpose of concurring in such case in the name and on behalf of the lunatic or infant, and any such person so appointed may lawfully so concur. Provided always, that it shall be lawful for the said Courts to require notice of such application to be given to such person, if any, as the Court shall think fit.

Order to appoint special guardian of an infant may be discharged by Courts if made without notice

VI. In any case in which any such order as aforesaid shall have been made by the said Courts, in the matter of any infant without notice to the guardian of the infant, it shall be lawful for the said Courts, if they shall respectively think fit so to do, to discharge such order upon the application of such guardian, by motion or petition; and the said Courts, if they shall respectively think fit, may thereupon appoint some

other fit person to be the special guardian of such infant for the purpose of such special case, and may also give such directions as may be necessary for substituting in such special case either the name of the guardian so applying, or of the special guardian so appointed, in lieu of the name of the special guardian so displaced. Provided always, that the discharge of any Order appointing a special guardian shall not invalidate any thing which shall in the meantime have been done by such special guardian, unless the Court shall upon notice to all parties specially so direct.

How special cases to be entitled.

VII. Every such special case shall be entitled as a cause between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant; and in the title to such cases, lunatics and infants shall be described as such, and their Committees, guardians, or special guardians named; and where in any such case a married woman is named as a plaintiff, and her husband as a defendant thereto, a next friend of such married woman shall be named in the title to such case; but nothing herein contained shall be construed so as to require a next friend of any Hindoo or Mahomedan married woman to be named in such title.

Form of special case.

VIII. Every such special case shall concisely state such facts and documents as may be necessary to enable the Court to decide the question raised thereby; and upon the hearing of such case, the Court and the parties shall be at liberty to refer to the whole contents of such documents; and the Court shall be at liberty to draw from the facts and documents stated in any such special case any inference which the Court might have drawn therefrom if proved in a cause.

Special case to state how guardian constituted, and the concurrence of married women.

IX. Every such special case to which an infant or lunatic is a party by his guardian, or special guardian, shall also state how such guardian or special guardian was constituted; and where any married woman having or claiming any interest distinct from her husband is a party to such case, it shall be stated therein that she concurs in such case in her own right.

Special case to be signed by Counsel and filed; and appearances to be entered for defendants.

X. Every such special case shall be signed by Counsel for all parties, and shall be filed in the same manner as bills, plaints, or allegations are filed, and the defendants may appear thereto in the same manner as defendants appear to bills, plaints or allegations, and no defendants shall be required to take an office copy of a special case, but an office copy thereof shall be taken by the plaintiff.

Parties to be bound by statements after defendants have appeared to special case.

XI. After a special case shall have been filed, and the defendants shall have appeared thereto, all the parties to such special case shall be subject to the jurisdiction of the Court in the same manner as if the plaintiff in the special case had filed a bill, plaint, or allegation against the parties named as defendants thereto, and such defendants had appeared to such bill, plaint, or allegation; and upon the special case being filed and appearances entered thereto, as aforesaid, all parties to such special case shall, for the purposes of such special case, be bound by the statements therein.

How cases to be set down for hearing.

XII. So soon as all the defendants shall have appeared to the special case, the same may be set down for hearing, and subpœnas to hear judgment or notices of hearing, issued and served according to the practice of the said Courts.

Upon hearing Court to determine question and make declaration.

XIII. It shall be lawful for the said Court upon the hearing of any such special case as aforesaid, to determine the questions raised therein or any of them, and, by decree or judgment, to declare its opinion thereon, and so far as the case shall admit of the same, upon the right involved therein, without proceeding to administer any relief consequent upon such declaration, and every such declaration of the said Court contained in any such decree or judgment shall have the same force and effect as such declaration would have had, and shall be binding to the same extent as such declaration would have been if contained in a decree or judgment made in a suit between the same parties instituted by bill, plaint, or allegation; provided always, that if upon the hearing of such special case as aforesaid, the Court shall be of opinion that the statements contained therein so far as the same

Proviso that Court may refuse to decide.

affect the interest of any married woman, infant, or lunatic, are not true, or that the questions raised thereby or any of them cannot properly be decided upon such case, the same may be at such hearing, with the consent of all parties thereto, and of the Court, amended, so as properly to raise such questions, or the said Court may refuse to decide the same.

Protection to be afforded to trustees by declaration.

XIV. Every executor, administrator, representative, trustee or other person making any payment or doing any act in conformity with the declaration contained in any decree or judgment made or pronounced upon a special case, shall in all respects be as fully and effectually protected and idemnified by such declaration, as if such payment had been made or act done under or in pursuance of the express order of the said Court made in a suit, action, or proceeding between the same parties instituted by bill, plaint, or allegation, save only as to any rights or claims of any person in respect of matters not determined by such declaration.

The Court may suspend the acting upon declaration.

XV. Where any person shall be desirous to have a special case re-heard, or to appeal from the decision thereon, it shall be lawful for the said Courts respectively upon application for that purpose, either at the time of the decree or judgment upon such special case being made, or at any time afterwards, and upon such conditions, if any, as the Court shall think fit, to order that the declaration contained in such decree shall not be acted upon for such time as the said Courts respectively shall think just.

Special case to be a *lis pendens*, and may be filed.

XVI. The filing of a special case, and the entering of appearances thereto by the persons named as defendants therein, shall be taken to be a *lis pendens*.

Mode of identifying documents, and Court may order production.

XVII. Any documents referred to in a special case, and any copies thereof or extracts therefrom, identified by the signature of the solicitors for all parties, may be produced and read at the hearing of such case, without further proof; and it shall be lawful for the said Courts respectively, at any time after the filing of the special case, and the entering of appearances thereto

by the persons named as defendants therein, to order any document, which may be admitted thereby to be in the possession of any party to such case, to be deposited and produced in such manner and for such purposes as the said Courts respectively shall think fit.

Court on application of executors or administrators, may by order of course direct it to be referred to a Master to take an account of debts and liabilities.

XVIII. It shall be lawful for the said Courts upon the application of the executors, administrators or representatives in estate of any deceased person, by order to be made upon motion or petition of course, and to be in the form or to the effect set forth in the Schedule hereto, with such variations as circumstances may require, to refer it to the Master of the said Courts respectively to take an account of the debts and liabilities affecting the estate of such deceased person, and to report thereon; provided always, that no such order shall be made until the expiration of one year next after the death of such deceased person, or pending any proceedings to administer the estate of such person, and in case at any time after the making of such order, any decree or order for administering the estate of such deceased person shall be made, it shall be lawful for the said Courts respectively, by such decree or order, to stay or suspend the proceedings under such order of course on such terms and conditions, if any, as to the said Courts respectively shall seem just.

Master's Report may be objected to by motion to the Court, of which notice shall be given.

XIX. It shall be lawful for any person who may have come in before the Master under any such order, and claimed to be a creditor upon the estate of the deceased person, or to have any demand upon such estate by reason of any liability, and whose debt or claim may not have been wholly allowed by the said Master, to apply to the Court making such order by motion, of which notice shall be given within fourteen days after the filing of the Master's report, to have such claim allowed by such Court, either wholly or partially; and it shall be lawful for the said executors, administrators or representatives in estate, and for any creditor of the deceased person who may be authorized by special leave of the said Court so to do, to apply to the said Court by motion, of which notice shall be given within the time aforesaid, to have any debt or claim allowed by

the said Master disallowed by the said Court, either wholly or partially, and, at the expiration of fourteen days after the filing of the said report, the same shall, except as to any debt or claim as to which any such notice as aforesaid may have been given, be absolute, as if the same had been confirmed by order of the said Court.

Proceeding of the Court on such motion.

XX. Upon the hearing of any such motion as aforesaid, the said Courts respectively may either dismiss such motion, or may order the debt or claim to which such motion relates to be allowed or disallowed, as the case may be, and either wholly or partially, or may direct further inquiry or further proceedings, by way of action or otherwise, touching such debt or claim, and after such inquiry or proceedings may, upon further motion, deal with such debt or claim as to the said Courts respectively shall seem just: provided always, that no new evidence shall be received by the said Courts upon the hearing of any such motion without special leave of the said Courts.

If debts or certain liabilities allowed and not paid or provided for, order may be made for payment or accounts.

XXI. In case any debt or any certain liability shall have been allowed as aforesaid, and shall not within fourteen days after the report has become absolute as to such debt or liability, or after the same shall have been allowed by the said Court, be paid or provided for by appropriation to the satisfaction of the person who has established such liability, it shall be lawful for the said Courts respectively by order to be made in case of any debt remaining due, upon the application by motion or petition of the person to whom the debt remains due, and on notice to the executors, administrators, or representatives in estate, and in case of any certain liability remaining unprovided for by appropriation upon the application by motion or petition of the person by whom such liability has been established, or of the executors, administrators, or representatives in estate, and on notice, by the party applying to the other of them, to order payment of the debts which may have been allowed and remain unpaid, and to provide for the certain liabilities which may have been allowed and remain unprovided for, in like manner as the same could or might have been paid or provided for in a suit for that purpose institued by bill, or to re-

fer it to the Master to take an account of the debts and certain liabilities allowed as aforesaid which remain unpaid or unprovided for, and also the usual accounts of the estate of the deceased person, with all usual and proper directions; and every such order shall have the same force and effect and shall be prosecuted and carried on in like manner as a decree in a creditor's suit instituted by bill.

Accounts to be taken according to usual practice of the Courts.

XXII. Nothing in Sections XVIII. and XXI. of this Act contained shall be construed so as to prevent any of Her Majesty's Courts from taking such accounts as aforesaid in any manner in which, according to the usual practices of such Courts, the same might have been taken if directed by decretal order made in a suit.

Court, on application of executors or administrators, &c., may direct appropriation of money to answer contingent liability.

XXIII. In case any contingent liability shall be allowed by the said report or by the said Courts respectively, it shall be lawful for the said Courts, by order to be made upon the application of the executors, administrators, or representatives in estate, by motion or petition, on notice to the person who may have established such contingent liability, to order such sum of money, part, or proceeds of part of the estate of the deceased person, as to the said Courts respectively shall seem just, to be set apart and appropriated for answering such contingent liability, and to give such directions as the said Courts shall think fit, touching the payment of such sum of money into Courts, and the investment thereof, and the payment, application, or accumulation of the interest or dividends thereof, in the meantime and until the same shall be required to answer such liability, and when such liability shall be ascertained or determined to give such directions as to the payment of such sum out of Court as the said Courts respectively shall deem right: Provided always, that no order to be made as aforesaid shall in any manner bind the assets so appropriated as against the persons entitled to the estate of the deceased subject to the contingent liability; and any person interested in such appropriated assets may apply to the Court touching the same, as he may be advised.

XXIV. After the filing of such report as aforesaid it shall be lawful for the said Courts respectively, upon the application of the executors, administrators or representatives in estate of the deceased, by order, to be made on motion, to restrain by injunction any proceedings at law against them by any person having or claiming to have any demand upon the estate of the deceased by reason of any debt or liability other than the persons who may have established contingent liabilities under the said order for which no appropriation may have been made.

Court may restrain proceedings against executors, administrators, &c.

XXV. In case no debt or liability, or no debt or liability other than a contingent liability, shall have been allowed as aforesaid, or in case any debt or liability other than as aforesaid shall have been allowed as aforesaid, then after the same shall have been paid or provided for by appropriation as aforesaid, all payments made by the executors, administrators, or representatives in estate, or any of them, on account of the estate of the deceased person, and all dispositions of such assets made by them or any of them on account of such estate, shall, as against all persons having or claiming to have any demand upon such estate by reason of any debt or liability, other than persons who may have established under the said order any contingent liability for which no such appropriation as aforesaid may have been made, be as good and effectual as if the same had been made under a decree of the said Courts respectively; provided always, that nothing herein contained shall in any manner affect or prejudice the rights of any creditor or other person having any demand or claim upon the estate of the deceased against any assets so paid or disposed of, or against the persons to whom such payment or disposition may have been made, or against any assets appropriated under the provisions of this Act, and the appropriation of which, if made under a decree of the said Court, in a suit to which he was not a party, would not have been binding upon him.

Protection to be afforded to executors, administrators, &c.

XXVI. All exceptions for scandal, impertinence, and insufficiency, which according to the existing practice of the said Courts are referred to the Masters of the said Courts, shall not any

Exceptions for scandal, impertinence and insufficiency to be heard by the Court.

longer be so referred, but shall be heard and determined in the first instance by the said Courts, or any Judge thereof.

Power for Court, notwithstanding any rule, &c., to the contrary, to receive proof by affidavit.

XXVII. Notwithstanding any rule or practice of the said Courts to the contrary, it shall be lawful for the said Courts respectively, at the hearing of any cause or of any further directions therein, to receive proof by affidavit or otherwise of all proper parties being before the Court, and of all such matters as are necessary to be proved for enabling the said Courts respectively to order payment of any moneys belonging to any married woman, and of all such other matters, not directly in issue in the cause, as in the opinion of the said Courts respectively may safely and properly be so proved.

Her Majesty's Courts to make General Rules and Orders from time to time.

XXVIII. It shall be lawful for the said Courts respectively, from time to time, to make, rescind, and alter General Rules and Orders for better enabling the opinion of the said Courts respectively to be obtained on special cases, and for effectuating the purposes of this Act as to the debts and liabilities of deceased persons, and for making any provisions which may be or be deemed necessary or proper as to amendment, revivor and supplemental matter or relief, and as to costs of any proceedings under or in pursuance of this Act, and for regulating the times and form and mode of procedure and practice of the said Courts in respect of the matters to which this Act relates, and every of them, and so far as may be found expedient for altering the course of proceeding hereinbefore prescribed in respect to such matters or any of them, and generally for assimilating the practice of the said Courts respectively to that of the High Court of Chancery in England.

Rules and Orders to be laid before the Governor General in Council, and to be binding from the time appointed or from the making unless objected to.

XXIX. All such General Rules and Orders shall be laid before the Governor General of India in Council within one month after the making and issuing of the same, and every such Rule or Order shall, from and after the time in that behalf to be appointed by the said Courts respectively, and if no time shall be so appointed, then from and after the making thereof, be binding and obligatory on the said Courts respectively, and be of like force

and effect as if the provisions therein contained had been expressly enacted by the Governor General of India in Council. Provided always, that if the said Governor General of India in Council shall, by any resolution passed at any time within six months after such Rules, Orders, and Regulations shall have been laid before him, resolve that the whole or any part of such Rules or Orders ought not to continue in force, in such case the whole or such part thereof as shall be so included in such resolution shall, from and after the time that such resolution is notified to the said Court, cease to be binding and obligatory on the said Court; provided that every such Rule or Order so made or expressed to be made in pursuance of this Act which shall not be laid before the Governor General of India in Council within the time by this Act limited for that purpose shall, from and after the expiration of such time, be absolutely void and of no effect. Provided always, that nothing in this clause contained shall be construed so that the said Rules or Orders should not be transmitted as heretofore to Her Majesty in Privy Council for approbation.

Until Rules or Orders are made, and if not applicable when made, practice to be according to this Act and practice of the Courts.

XXX. In the mean time and until any such General Rules or Orders shall be made and in so far as the same, when made, shall not be applicable, the proceedings under this Act shall be governed and regulated by the provisions herein contained, so far as the same extend, and in so far as the same do not extend shall, as well with respects to the persons who ought to be made parties to special cases as in every other respect, be governed and regulated by the Rules, Orders and Practice of the said Courts respectively, in suits instituted by bill, so far as the same can be applied thereto; and subject to such General Rules and Orders as aforesaid, the costs of all proceedings under this Act, shall be in the discretion of the said Courts respectively.

Decrees and Orders to be subject to appeal, &c.

XXXI. All decrees and orders made under the provisions of this Act, shall be subject to rehearing, appeal, and review, and may be discharged and varied in the same and the like manner as decrees and orders of the said Courts made in suits instituted by bill.

Interpretation of Terms.

XXXII. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or in the context repugnant to such construction:

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number.

Words importing the masculine gender only shall include females

The expression "Her Majesty's Courts" or "Courts" shall mean and include Her Majesty's Supreme Courts of Judicature at Bengal, Madras and Bombay, and also the Court of Judicature of Prince of Wales' Island, Singapore and Malacca.

The word "Lunatic" shall include idiots and persons of unsound mind, and whether found such by inquisition or not.

The word "Guardian" shall mean father or testamentary guardian, or guardian appointed by any of Her Majesty's Courts (not being a special guardian appointed under the Provisions of this Act).

Commencement of Act.

XXXIII. This Act shall commence and take effect from and after the Tenth day of April, One thousand eight hundred and fifty-two.

SCHEDULE REFERRED TO BY THE FOREGOING ACT.

(*Date*)

In the matter of A. B., late of in Banker (or as the case may be), deceased.

Upon motion this day made into this Court by Mr. Counsel for C. D., of the executor (or administrator) of the above-named A. B., or upon the humble petition of C. D., of the executor (or administrator) of the said A. B., this day preferred unto the Supreme Court of Judicature at (for the reasons therein contained), it is ordered: that it be referred to the Master of this Court to take an account of the debts and liabilities affecting the (*personal or the real estate of the said A. B., or his moveable and immoveable estate, as the case may be*), and to compute interest on such of the said debts and liabilities as carry interest, after the rate of interest the same respectively carry; and the said Master is to cause an

advertisement to be published in the Gazette and such other public papers as he shall think fit for the persons claiming in respect of any such debts or liabilities, to come in before the said Master and prove their debts and claims, and he is to fix a peremptory day for that purpose; and such of the creditors as shall not come in and prove their debts and claims by the time so to be limited, are to be excluded the benefit of this order; and it is ordered that the Master do distinguish debts from liabilities and liabilities certain from liabilities contingent; and it is ordered that the said estate of the said A. B. be applied in payment and satisfaction of such debts and liabilities of the said A. B. in a due course of administration; and for the better taking the said accounts and discovery of the matters aforesaid the parties are to produce before the Master, upon oath, all deeds, books, papers and writings in their custody or power relating thereto, and are to be examined upon interrogatories or *vivâ voce* as the said Master shall direct; and any of the parties are to be at liberty to apply to the Court as there shall be occasion. [The Master's office is abolished, but this Form would be valid for reference to a Judge.]

The Code of Civil Procedure (Act VIII., 1859,) being the Procedure of the High Court, only the Law Substantive involved in the provisions of this Act remain in force.

BENGAL.—PLEADERS.

ACT No. XVIII. OF 1852.

[*Passed on the* 19*th March*, 1852.

1. Repeals Bengal regulations, R. 26 of 1814, cl. 4, s. 5, and ss. 6, 7, 8, 10, 11, 13, 14, 15; R. 27, 1814, cl. 3, s. 9, and cl. 6, s. 20; R. 10, 1829, s. 18, and Act I., 1846, ss. 10, 11.

2. Pleader to be liable to dismissal on conviction of breach of trust, or professional fraud or dishonesty.

3. Prescribes what shall be sufficient proof of such conviction for order of dismissal.

4. Prescribes the form of procedure for dismissal of Pleader.

5. Vests the power of dismissal in Sudder and Zillah Courts respectively as to their respective Pleaders.

6. Gives appeal against order of Zillah Judge.

7. Abolishes power of Courts to fine Pleaders except for obstructions to justice.

An Act to amend the Law relating to Pleaders in the Lower Provinces of the Presidency of Bengal.

I. Clause 4, Section V., Regulation XXVI. of 1814, and Sections VI., VII., VIII., X., XI., XIII., XIV., XV., Clause 3, Section IX, and Clause 6, Section XX. of Regulation XXVII. of 1814, and Section XVIII., Regulation X. of 1829, of the Bengal Code, and Sections X. and XI., of Act I. of 1846, so far as regards the said Courts and the Pleaders therein, are hereby repealed.

II. Any Pleader practising in the said Courts shall be liable to dismissal on proof of his conviction by a competent Court of a criminal offence, or on proof of a declaration or finding by a competent Court, in a suit or proceeding to which such Pleader was a party, that he has knowingly committed a breach of trust, or for fraudulent or dishonest conduct in the discharge of his professional duty.

III. When a competent Court has convicted a Pleader of a criminal offence, or has declared or found, in a suit or proceeding to which such Pleader was a party, that he has knowingly committed a breach of trust, the Court competent to dismiss such pleader may make an order for his dismissal on the production of an authenticated copy of the judgment or decision containing such conviction, declaration or finding, and on proof, to the satisfaction of the Court, and such judgment or decision has not been set aside or reversed, and that the Pleader is the party to whom such conviction or decision relates.

IV. When any Pleader is charged with fraudulent or dishonest conduct in the discharge of his professional duty, by any person or Court, the Court competent to make an order for his dismissal shall serve or cause to be served upon such Pleader a copy of the charge or charges brought against him, and also a notice of the day appointed by the said Court for the hearing of such charge or charges, and such copy and notice shall be served upon the said Pleader at least twenty clear days before the day appointed for such hearing: and on the hearing of the said charge or charges the Court shall receive all such revelant evidence as shall be properly tendered by, or on behalf of the Court or party

bringing the charge or charges, or by the said Pleader, and shall proceed to adjudicate on the said charge or charges in a summary way, and shall record its decision, and the reasons on which the same is grounded. Provided always, that the Court which is competent to dismiss a Pleader, shall also be competent to bring a charge or charges and proceed against him as aforesaid, and may also hear and adjudicate upon such charge or charges in manner hereinbefore mentioned. Provided also, that the evidence of witnesses on such hearing shall be taken and made upon oath, and every witness who shall give false evidence at such hearing shall be liable on conviction to punishment for perjury, in like manner as witnesses examined in civil or criminal trials.

V. The power of dismissing Pleaders practising in the Sudder Court of the said Provinces is vested in the Judges of that Court; the power of dismissing Pleaders practising in the Courts of the Zillah Judges, or in Courts subordinate to them, in the said Provinces, is vested in the Zillah Judges respectively.

VI. An appeal from the order of any Zillah Judge, for the dismissal of a Pleader, may be made to the Sudder Dewanny Adawlut, according to the Rules in force for the admission of appeals.

VII. It shall not be lawful for any of the said Courts of the Lower Provinces of the said Presidency to impose any fine on any Pleader practising in the said Courts, except such fine as may be imposed under the provisions of Act XXX. of 1841.

Repealed by Act XX., 1865, so far as it affects the Territories to which that Act extends, or is extended under s. 48.

TOWN OF MADRAS.—ABKAREE REVENUE.

ACT NO. XIX. OF 1852.

[*Passed on the 19th March*, 1852.

1. Repeals Madras R. 1, 1813, and 33 G. 3, c. 52, s. 159, as respects Madras.

2, 3. Places collections of Abkaree Revenue under Collector; and (3) empowers him to appoint collecting officers.

4, 5. Prohibits retail sale of spirits without license; and (5) defines what shall be "retail sale."

6. License must specify certain things, but Board of Revenue may regulate form of it.

7. Prohibits sale of Arrack and other country spirits in larger than specified quantities.

8. Counterpart of license to be executed by trader.

9. License may be withheld or recalled on notice.

10. Regulates the export of spirits manufactured east of the Cape of Good Hope.

11. Regulates the mode of warehousing and keeping spirits manufactured by European process.

12. Justices not to grant license to Lodging Houses, &c., in which spirits may be sold till after license has been obtained from Collector.

13. Collector after demand may levy arrears of tax, &c., due under license, by distress.

14. Breaches of condition of license punishable by fine.

15. Persons, not licensed dealers, having above specified quantity of certain spirits unprotected by pass, &c., to be liable to fine.

16. Makes liable to confiscation illicit spirits, &c., and the vessels, &c., containing them.

17. Empowers any Abkaree officer above a peon to enter houses of licensed dealers.

18. Directs where dealer shall keep his license, &c., under a penalty.

19. Empowers Abkaree officer to stop and detain persons in the street or in shops, &c., having spirits, &c., without pass, &c.

20. Empowers Collector to issue warrant to enter suspected places and seize liquor, &c.

21. Requires constables, &c., to aid Abkarry officers.

22, 25. Directs that persons seized for breaches of Abkarry Laws shall be carried before Collector, and (25) officer not doing so liable to fine.

23. Persons laying malicious information liable to fine.

24. Persons molesting or obstructing Abkarry officer liable to fine.

25. Supra.

26. Abkarry officers making vexatious or unnecessary seizure, liable to fine.

27. Extends to town of Madras, R. 1, 1820, S. 4, 5, 6, and Act 32, 1845, with specified exceptions.

28. Empowers G. of Fort St. George in C., &c., to revise form of licensee, &c.

29. Abkarry officer unlawfully releasing, &c., any person arrested, liable to fine.

30. Forbids the asking or taking of gratuities, &c.

31, 32. Cases of seizure of goods for breach of Abkarry laws to be determined by Superintendent of Police; and (32) in case of goods seized and no one claiming them within a month, Superintendent of Police to order concerning them.

33. All fines leviable under this Act to be adjudged by Superintendent of Police.

34. Imposes for a second offence imprisonment in addition to penalty.

35. Half the fine to be given to Abkarry officers, the other half to informer, and Board of Revenue may reward officers.

36. Fines not otherwise disposed of to belong to Government, but half may be disposed of as rewards.

37, 38. No writ of Certiorari to apply to proceedings under this Act; and (38) actions against Abkarry officers to be brought into Courts of E. I. Co.

39. Empowers Collector to punish for contempts.

40. Interpretation clause.

An Act for securing the Abkarry Revenue of Madras.

For better securing the Abkarry Revenue of the Town and Suburbs of Madras, it is enacted as follows:

I. Regulation I. of 1813 of the Madras Code, and so much of Clause 159 of an Act of Parliament numbered Chapter LII. of the Statutes passed in the thirty-third year of King George the Third, as relates to the sale of Arrack or other spirituous liquors within the Town of Madras, and to the punishment of unlicensed traders in spirits or spirituous liquors within the said Town, are repealed.

II. The collection of the Revenue arising from the retail sale of spirituous or fermented liquors within the Town and Suburbs of Madras, shall be under the charge of the Collector of Madras, who shall perform the duties connected therewith under the control of the Board of Revenue.

III. The Collector may appoint Conicopolies, Pygusts, Jemadars, Peons and other Officers for collection of the said Revenue and prevention of smuggling; and the Officers so appointed, besides their ordinary respective designations, shall be styled "Abkarry Officers."

IV. Every person who shall sell by retail any spirituous or fermented liquors within the Town and Suburbs of Madras without a license for that purpose, under the hand and seal of the Collector of Madras, shall be liable to a fine not exceeding Five Hundred Rupees for each sale, but this enactment shall not apply to wholesale dealers selling such small quantities of Beer, Wine, or Spirits, as may appear to the Collector to be intended only as samples.

V. A sale of European Spirits in a less quantity than two and a half gallons old Wine measure (*i. e.*, one dozen quart bottles), and of Arrack or Rum or any other spirits manufactured to the Eastward of the Cape of Good Hope in a less quantity than one quart, and of English and Foreign Beer or Wine in a less quantity than six quart bottles, and of Toddy in a less quantity than one quart, shall be deemed a retail sale within the meaning of this Act.

VI. The Board of Revenue shall have authority at all times to regulate the form and provisions of licenses to be granted under this Act, and to alter and add to the conditions thereof; and each license shall distinctly specify the kind or kinds of liquor the holder is authorized to sell, the manner in which and source whence such liquor is to be supplied to him, the excise duty, not exceeding three rupees and eight annas per gallon, which he shall pay upon it, whether it be provided by the Officers of Government or otherwise, or should a fee upon the license be substituted for the said excise duty, the amount of such fee. The license shall further specify the district or place, street or road, and house or shop in which the sale is to be carried on.

VII. The sale of Arrack or Rum or other country Spirits, or of Toddy, in quantities larger than those specified for each article in Section V. of this Act, is prohibited: and every person who shall act in breach of this prohibition, shall be liable to the fine prescribed in Section XV. for the illicit possession of these articles; but this prohibition does not apply to the sale of spirituous or fermented liquors imported into Madras under passes from the Collector, or other Officer duly empowered in that behalf, and supplied by wholesale to licensed retail dealers, or to the sale of Rum under bond for exportation by sea, and covered by a certificate to that effect.

VIII. Every person taking out a license for the retail sale of spirituous or fermented liquors or intoxicating drugs under this Act, shall execute a counterpart engagement in exact conformity with the tenor of such license.

IX. The Collector may withhold or recall a license, if any of the conditions upon which the license is granted be not complied with, or, with the sanction of the Board of Revenue, for any

other cause, giving fifteen days' notice of such withdrawal: and any person selling by retail any spirituous or fermented liquor within the Town and Suburbs of Madras, whilst such license is withheld, or after it is recalled, shall be subject to all the penalties provided by this Act for the unlicensed sale of spirituous or fermented liquors.

X. No spirituous liquor manufactured Eastward of the Cape of Good Hope, shall be removed from the Sea Custom House to any Warehouse, Shop, or private dwelling, or from one Warehouse, Shop, or private dwelling to another, without the Permit of the Collector of Madras, which Permit must accompany all liquors so removed, but persons having paid the Sea Custom Duty, shall be entitled to dispose of such liquor by wholesale for exportation beyond the limits of Madras and its Suburbs, such export to be made under permits to be granted by the Collector of Madras at his discretion, and on proof to his satisfaction that the spirits are intended to be exported.

XI. All spirituous liquors manufactured by the European method of distillation shall, when imported into the Town and Suburbs of Madras by land, be placed under the charge of the Collector of Sea Customs, who will have them gauged and tested. The said liquors may be either kept in the custody of the Importer on his furnishing security for their exportation or sale, under the provisions of Section II., Act XXXII., of 1845, or in the joint custody of the Collector of Sea Customs and the Importer, or they may be deposited in the Sea Custom Warehouse on payment of the usual Warehouse rent. When kept in such joint custody, or deposited in such Warehouse as aforesaid, no security for their exportation or sale shall be required, and the amount and nature of the security required to be furnished when such liquors are kept in the custody of the Importer, shall be fixed by the Governor of Fort St. George in Council, who shall also determine the time to be allowed for their exportation.

XII. Repealed by Act XIII., 1856.

XIII. The Collector, after demand made in writing, may levy any arrears of tax, duty, or fee, due on account of any license granted under this Act, by distress and sale of the goods and chattels of the person from whom the same is due: provided that no such arrears shall be recoverable after the end of two

years next after the same shall have become due, or next after an acknowledgment of the same in writing shall have been given by the person by whom the same is payable.

XIV. A breach of any of the conditions of a license granted under this Act, shall, besides forfeiture of the license, be punishable by a fine not exceeding Fifty Rupees, and such fine shall be recoverable from the licensed dealer, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

XV. Any person, not being a licensed dealer, having in his possession, and any person carrying within the Town and Suburbs of Madras any greater quantity of spirituous or fermented liquors (excepting English and Foreign Beer, Wine, and Spirits), than the quantity specified for each article in Section V., and not being protected by a Pass or Permit from the Collector or other Officer duly empowered in that behalf, shall be liable to a fine not exceeding Five Hundred Rupees.

XVI. Beside the penalties above specified for the illicit sale, possession, and carrying of spirituous or fermented liquors, all such liquors found in the possession of any offender against this Act, shall be seized and confiscated, together with the Vessels, Packages and Coverings in which such liquors are found, and the animals and conveyances used in carrying them shall also be liable to seizure and confiscation.

XVII. Any Abkarry Officer above the rank of Peon, may enter, inspect, and search, at any time, by day or by night, for any of the purposes contemplated in this Act, the house or shop in which any licensed retail dealer shall carry on the sale of spirituous or fermented liquor under this Act.

XVIII. Every person, holding a license for the retail sale of spirituous or fermented liquors, shall keep such license at the house or shop specified in the license, and shall show the license on the demand of any Abkarry Officer who shall desire to see the same; and any licensed dealer, who shall refuse or be unable to produce his license on the demand of any Abkarry Officer, shall be liable to a fine not exceeding Two Hundred Rupees.

XIX. Any Abkarry Officer may stop and detain any person having possession of or carrying in any Public Road, Street,

Thoroughfare or place, or in any open shop, any spirituous or fermented liquors without a Pass, or otherwise liable to confiscation under this Act, and may seize the liquors, with the Vessels, Packages, and Coverings in which the liquors are found, and the animals and conveyances used in carrying them.

XX. If the Collector has good reason to believe, either from information given by any Abkarry Officer, or other person, to be taken down in writing, or from his own knowledge, or from the proceedings in any other case that any spirituous or fermented liquor liable to confiscation under this Act is kept or concealed in any place, the Collector, by warrant under his hand, may empower any Abkarry Officer, above the rank of Jemadar of Peons, between sunrise and sunset, but always in the presence of a Constable or other Officer of the Peace, to enter into every such place where any such liquor is suspected to be kept or concealed, and to seize and carry away such liquor, and in case of resistance, to break open any door, and to force and remove any other obstacle to such entry, search, seizure or removal, as aforesaid, and to arrest and detain the owner or occupier of the premises, with all parties whom he suspects to be concerned in the unlawful keeping or concealing of such liquor whom he shall find on the premises. Provided that, where there is ground to suspect that such liquor is unlawfully concealed in any apartment of the women, in houses belonging to the classes whose women do not appear in public, the Officer charged with the execution of the Warrant shall follow, as closely as may be, the rules for the seizure of property so concealed, adopted by the Supreme Court of Judicature at Fort St. George.

XXI. All Constables and other Ministerial Officers of the Peace, are required to aid the Abkarry Officers in the due execution of this Act, upon notice given, or request made by any such Abkarry Officer; and any Officer who, without lawful excuses, shall refuse or neglect to assist as aforesaid, on being required to do so, shall be liable to the penalty prescribed by Section XXIX. of this Act for Abkarry Officers conniving at the escape of a person arrested under this Act.

XXII. Whenever an Abkarry Officer, duly authorized under this Act, shall arrest any person, or shall seize any spirituous or fermented liquors, or shall enter any house or shop for the purpose

of searching for such illicit liquors, he shall carry the person arrested, with the illicit liquors seized, with all convenient despatch, to the Collector, and shall, within twenty-four hours thereafter, make a full report to the Collector of all the particulars. And the Collector, after such further inquiry as he may deem necessary, shall forthwith either release the person arrested, or send him in custody to the Superintendent of Police, or one of his Deputies.

XXIII. Every person who shall maliciously give false information against any person, for being engaged in the unlicensed sale of spirituous or fermented liquors, or for having in his possession or carrying, or in respect of there being in any house or shop, any spirituous or fermented liquors, in contravention of this Act, shall be liable to a fine not exceeding Five Hundred Rupees, or to imprisonment in the Common Gaol, for a period not exceeding six months, or to both.

XXIV. Every person who shall obstruct or molest any Abkaree Officer, or any person acting in aid of such Officer, in the due execution of this Act, shall be liable to a fine not exceeding Five Hundred Rupees, and such person shall be further liable, if any affray or breach of the peace shall happen in consequence of his resistance, on conviction of the same before a competent tribunal, to such punishment as is prescribed by Law for cases of affray and breach of the peace, in addition to the penalty above prescribed for resistance of process.

XXV. Any Abkaree Officer, who shall delay carrying to the Collector any person arrested, or any illicit liquors seized under this Act, or who shall neglect to report the particulars of an arrest, seizure, or search within twenty-four hours thereafter, shall be liable to a fine not exceeding Two Hundred Rupees.

XXVI. Any Abkaree Officer, who shall vexatiously and unnecessarily seize the goods or chattels of any person, on the pretence of seizing or searching for illicit spirituous or fermented liquors, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess not required for the execution of his duty, shall be liable to a fine not exceeding Five Hundred Rupees.

XXVII. The provisions regarding Distilleries and Stills in Sections IV., V., VI., Regulation I. of 1820, of the Madras Code,

and Act XXXII. of 1845, shall apply and be in force within the Town and Suburbs of Madras, except that the powers vested in the Criminal Judge by Section IV., Clause 5, and Section VI., Clause 9, Regulation I. of 1820, of the Madras Code, and in the Session Judge and Subordinate Judge of the Zillah, by Sections IV., V., Act XXXII. of 1845, shall be exercised within the limits of the Jurisdiction of the Supreme Court by the Superintendent of Police.

XXVIII. It shall be competent to the Governor of Fort Saint George in Council, or to any Officer duly empowered by him in that behalf, to revise, from time to time, the forms of licenses to be granted under Section IV., Regulation I. of 1820, of the Madras Code, for the establishment of Distilleries for manufacturing Rum, Arrack, or other Spirits by process of distillation similar to the European process, and to introduce into such forms of licenses such provisions and stipulations as may seem to be advisable, anything in Section II., Act XXXII. of 1845, to the contrary notwithstanding.

XXIX. Any officer employed in the Abkarry Department, who shall unlawfully release or connive at the escape of any person arrested under this Act, or connive at the sale of spirituous or fermented liquors without a license, or by any licensed dealer contrary to the terms of such license, or act in a manner inconsistent with his duty, for the purpose of enabling any person to do any thing whereby any of the provisions of this Act may be evaded or broken, or the Abkarry Revenue be defrauded, shall be liable to a fine not exceeding Five Hundred Rupees.

XXX. Any Officer employed in the Abkarry Department, who shall ask or take any gratuity not authorized by any law or order of Government, or of the Board of Revenue, in consideration of doing or of omitting to do any Act in his official capacity, and any person who shall offer a bribe to any such Officer, in order to induce such Officer to act in a manner inconsistent with his duty, shall be liable, for every such offence, to a fine not exceeding Five Hundred Rupees.

XXXI. When any goods or chattels shall be seized by an Abkarry Officer, as liable to confiscation under this Act, such seizure shall, upon information exhibited by order of the Collector, be heard and determined in a summary manner by the Superin-

tendent of Police or one of his Deputies, who shall cause the persons to whom such goods and chattels belong, to be summoned to appear, and upon their appearance or default, shall examine into the cause of the seizure thereof and give judgment: and, if such judgment shall be for confiscation of the goods or chattels seized, shall issue his warrant to the Collector for the sale or disposal thereof, according to such orders as the Collector may receive from the Board of Revenue.

XXXII. Whenever any goods or chattels shall be seized as aforesaid, and within one calendar month no person shall appear before the Collector to claim the same, the Superintendent of Police, or one of his Deputies, shall examine into the cause of the seizure, at a place and time, of which notice shall have been given by the Collector in the "Fort St. George Gazette," and give judgment for the confiscation of such of the goods and chattels as, upon such examination, shall appear to him liable to forfeiture; and upon confiscation thereof, shall issue his warrant for the disposal of them, as if the owner had been summoned to attend before the said Superintendent or one of his Deputies.

XXXIII. All fines leviable under this Act shall be adjudged by the Superintendent of Police, or one of his Deputies, any of whom, upon information exhibited before him by order of the Collector, shall, within three calendar months next after the act by which the fine was incurred and not afterwards, summon the parties accused, and upon their appearance or default, shall examine into the matter, and upon due proof made thereof, by the voluntary confession of the parties, or by the oath, or solemn affirmation (in cases wherein a solemn affirmation is receivable by law instead of an oath), of one or more credible witnesses, shall give judgment accordingly; and, in default of payment of any fine to which an offender is adjudged, he shall be liable by Warrant of the said Superintendent of Police, or one of his Deputies, to imprisonment in the Common Gaol, for a period not exceeding six months, or until the fine be sooner paid.

XXXIV. Whenever any person shall be convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment in the Common Gaol,

for a period not exceeding six months, and a like punishment of imprisonment not exceeding six months, shall be incurred in addition to the punishment which may be inflicted for a first offence upon every subsequent conviction after the second.

XXXV. One-half of all fines levied from persons convicted of the illicit possession, carrying, or sale, of spirituous or fermented liquors, and of the proceeds from the sale of liquors, vessels, packages, conveyances, stills, and other things confiscated under this Act, shall, upon adjudication of the case, be awarded in such proportion as the Superintendent of Police or one of his Deputies, adjudicating as aforesaid, may think proper, to the Officer or Officers who apprehended the offender or seized the illicit liquors or other articles,—and the other half shall be given to the informer; and if no fine be realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of Two Hundred Rupees, as may appear to them fit. Provided that the Board of Revenue may determine, by General Order, what class of Abkarry Officers shall receive rewards, and what classes shall have no title to share therein.

XXXVI. All fines levied under this Act, the disposal of which is not especially provided for, shall belong to Government; but the Officer adjudicating the case may grant any portion thereof not exceeding one-half, as rewards to informers, or as compensation to parties injured by any proceedings under this Act.

XXXVII. No writ of *Certiorari* shall be issued at the suit of any party out of the Supreme Court of Judicature at Fort. St. George, to supersede, stay, remove, or in any wise affect any information or judicial proceeding before the Superintendent of Police or any of his deputies in pursuance of this Act; and no judgment thereupon shall be quashed, except for error of law apparent on the face of the judgment.

XXXVIII. All actions and prosecutions to be instituted against the Collector or any Abkarry Officer, or any person acting in aid of any such Officer, for anything done in pursuance of this Act shall be tried and determined in the Civil Courts established by the East India Company in the Zillah of Chingleput, notwithstanding that the cause of action in respect of which such action is brought, arose, or the Defendant therein reside,

within the limits of the Town of Madras, and every such action, shall be brought within three Calendar months after the fact committed and not afterwards, and notice in writing of such action, and of the cause thereof, shall be given to the Defendant, one calendar month at least before the commencement of the action, and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if after action brought, a sufficient sum of money shall have been paid into Court with costs, by or on behalf of the defendant.

XXXIX. The Collector in respect of the duties to be performed by him under this Act, shall have power to punish any contempt committed in his presence in open Cutcherry by the imposition of a fine not exceeding Two Hundred Rupees, commutable, if not paid, to imprisonment in the Common Gaol for a period not exceeding one month. Provided that an appeal from any order passed under this Section shall lie to the Board of Revenue, and the decision of the Board thereon shall be final.

XL. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction, that is to say: words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular, and words importing the masculine gender only, shall include females. The words "Collector of Madras," shall mean the Officer who may at any time be charged with the superintendence and collection of the public revenue within the Town of Madras, although such officer may not be officially designated "Collector of Madras." The words "Town and Suburbs of Madras," shall include the Town of Madras, the limits of the Supreme Court of Judicature at Madras as declared and described by the 12th Section of Regulation II. of 1802, of the Madras Code, and the district comprised within eight miles beyond any part of those limits.

Amended by Act III., 1856.

MADRAS.—PUBLIC WORKS.

ACT No. XX. OF 1852.

[*Passed on the 27th March,* 1852.

1, 2, 3. G. in C. may by minute declare land to be needed for public works and (2) therefore order it to be taken possession of; and (3) such land shall be marked out and belong to Government.

4, 5, 6. Officer taking the land is to notify the order in a public manner and cite parties interested to appear; and (5) officer may admit their claims and agree for compensation, or (6) if they cannot agree may refer dispute in manner following.

7, 8, 9. Directs in what manner arbitrators shall be appointed; and (8) that arbitrators shall appoint an umpire; and (9) umpire to decide only where a majority of arbitrators cannot agree.

10. Empowers the Collector to compel the arbitrators to attend and make the award.

11. Empowers the Collector to summon witnesses before arbitrators and to compel them to give evidence, &c.

12. Collector may compel the production of title deeds, &c., before arbitrators

13, 14. Defines the mode of proceeding for arbitrators; and (14) makes their award conclusive, unless set aside by Civil Court for corruption, &c.

15. Empowers the Collector to hold compensation money if parties interested are minors, &c.

16. Directs how the award shall be made.

17. Prohibits proceedings for compensation except under this Act.

18. Makes bargain with parties apparently interested valid against all other parties after public notification, &c.

19. Permits diet money to be paid to witnesses.

20. Extends Act 42, 1850, to Madras.

21. Interpretation clause.

An Act to facilitate the Acquisition of Land needed for public purposes in the Presidency of Fort St. George.

I. Whenever it shall appear to the Governor of Fort St. George in Council that any land is needed for a public purpose, he shall make a declaration to that effect in a Minute of Council, and such declaration shall be conclusive evidence that the purpose for which the land is needed is a public purpose.

II. When a declaration has been made by the Governor in Council that any land is needed for a public purpose, if there shall be any hindrance to the immediate acquisition of such land by purchase from the parties interested therein, it shall be competent to the Governor in Council to order the land to be taken

possession of on the part of Government and applied to the purpose for which it is needed, leaving claims for compensation for the land to be determined as hereinafter provided.

Extended to Madras Town by Act I., 1854; repealed by Act VI., 1857, which substitutes new provisions. The two Sections empowering the Government to take land are retained: those directing the Procedure cease to have any operation, and are omitted.

BOMBAY.—UNCOVENANTED DEPUTY COLLECTORS.

Act No. XXI. of 1852.

[*Passed on the* 16*th April*, 1852.

1, 2. Authorizes appointment of Uncovenanted Deputy Collectors; and (2) prescribes a declaration to be made by them.

3, 4, 5. Prescribes the powers which may be given to them and (4) extends R. 16, 1827, s: 11, to them; and (5) in what way their misconduct is to be dealt with and how they may be dismissed.

An Act to authorize the employment of Uncovenanted Deputy Collectors in the Presidency of Bombay.

Whereas the exigencies of the public service require the employment of Uncovenanted Deputy Collectors in the Revenue Department within the Presidency of Bombay, it is hereby enacted as follows:

I. The Governor of Bombay in Council may appoint in any Zillah or District within the said Presidency, one or more Uncovenanted Deputy Collectors, with the powers hereinafter mentioned.

II. Every person appointed a Deputy Collector under this Act shall, before entering upon the duties of his office, make and subscribe a solemn declaration to the same effect as the oath prescribed in Appendix A. annexed to Regulation XVI. of 1827 of the Bombay Code, the words "the East India Company" being inserted in such declaration, instead of the words, "the United Company of Merchants of England trading to the East Indies" and the words, "United Company" in the said oath contained, and such declaration shall be made and subscribed either

before Her Majesty's Supreme Court of Judicature for Bombay, the Court of Sudder Dewanny Adawlut of Bombay, any Judge on circuit in the Zillah, in which such Deputy Collector may be appointed, the Judge, Collector or Magistrate of that Zillah, or such other person as may be deputed or authorized by any order of the said Governor in Council to take or receive such declaration.

III. Deputy Collectors appointed under this Act shall discharge such of the duties and exercise such of the powers of the Covenanted Assistants in the Revenue Department, as shall be prescribed from time to time in each case by the Governor of Bombay in Council, and shall be subject to the same control and authority in all respects as such Assistants respectively.

IV. Section XI. of Regulation XVI. of 1827, of the Bombay Code, shall be applicable to Deputy Collectors appointed under this Act, who shall hold their Offices subject to the provisions of the said section.

V. No Deputy Collector appointed under this Act shall be dismissed from Office without the sanction of the Governor of Bombay in Council. Whenever there is reason to believe that a Deputy Collector is disqualified, by neglect, incapacity, corruption or other misbehaviour, for continuance in office, a report shall be made by his superior in the Revenue Department for the consideration and orders of the Governor of Bombay in Council, who shall be competent to suspend such Deputy Collector, and order a further inquiry into his conduct, or direct his immediate dismissal, as may appear just and proper.

BENGAL.—PUTNEE TALOOK SALES.

ACT No. XXII. OF 1852.

[*Passed on the* 30*th April*, 1852.

Gives validity to orders and sales in summary suit by specified officers not having jurisdiction.

To avoid doubts as to the validity of certain decisions in summary suits for arrears of rent, and of certain sales of Putnee Talooks and other saleable tenures.

Past and obsolete.

MADRAS AND BOMBAY.—FINES AND FORFEITURES.

ACT No. XXIII. OF 1852.

[*Passed on the 7th May*, 1852.

1, 2, 3. Abolishes the power of Courts of Justice to mitigate fines, &c., and (2) gives such power to the Madras Government: and (3) to the Bombay Government.

To authorize and empower the Governors in Council of the respective Presidencies of Madras and Bombay to mitigate or discharge fines, amerciaments, &c., imposed by the Supreme Courts, or any other Courts of Justice at Madras and Bombay respectively.

Whereas the Supreme Court of Judicature at Madras now hath certain power and authority to mitigate and discharge fines, amerciaments, forfeitures and sums of money ordered, adjudged, set, imposed, or awarded by the said Supreme Court of Judicature at Madras upon, or against, any person or persons whomsoever for or by reason of any offences, misdemeanours, defaults, contempts, neglects, or forfeitures whatsoever: And whereas the Supreme Court of Judicature at Bombay hath certain power and authority to mitigate and discharge fines, amerciaments, forfeitures, and sums of money ordered, charged, adjudged, set, imposed, or awarded by the said Supreme Court of Judicature at Bombay upon, or against, any person or persons whomsoever for or by reason of any offences, misdemeanours, defaults, contempts, neglects or forfeitures whatsoever: And whereas it is expedient that such respective powers and authorities should be exercised by the respective Governors in Council of the Presidencies of Madras and Bombay respectively, it is hereby enacted as follows:

I. The powers and authorities respectively exercised by the said Supreme Courts at Madras and Bombay, or by any other Courts of Justice at Madras and Bombay respectively, to mitigate, and discharge fines, amerciaments, forfeitures and sums of money ordered, charged, adjudged, set, imposed or awarded by such Supreme Courts or by any other Court of Justice at Madras or Bombay aforesaid upon, or against, any person or persons whomsoever, for or by reason of any offences,

misdemeanours, defaults, contempts, neglects, or forfeitures whatsoever, shall henceforth respectively cease and determine.

II. It shall be lawful for the Governor in Council of the Presidency of Fort St. George at Madras to mitigate, or discharge all fines, amerciaments, forfeitures, and sums of money which may have been or may hereafter be ordered, adjudged, set, imposed, or awarded by the said Supreme Court of Judicature at Fort St. George at Madras aforesaid, or by any other Court of Justice, or other person or persons there, having lawful authority to order, charge, adjudge, set, impose, or award fines, amerciaments, ransoms, forfeitures, penalties, or sums of money, for or by reason of any offences, misdemeanours, defaults, contempts, neglects or forfeitures whatsoever, as the Court of Exchequer in England, or the Chancellor or Barons thereof, may or can lawfully do in England. And the said Governor in Council may, by any order, cause a share or proportion of any fine imposed, on any person or persons for any delinquency or misdemeanour prosecuted to judgment, to be paid over to the prosecutor towards defraying his expenses occasioned thereby, as such Governor in Council shall think fit and expedient.

III. It shall be lawful for the Governor in Council of the Presidency of Bombay to mitigate or discharge all fines, amerciaments, forfeitures, and sums of money, which may have been or may hereafter be ordered, adjudged, set, imposed, or awarded by the said Supreme Court of Judicature at Bombay, or by any other Court of Justice, or other person or persons there, having lawful authority to order, charge, adjudge, set impose, or award fines, amerciaments, ransoms, forfeitures penalties, or sums of money for or by reason of any offences, misdemeanours, defaults, contempts, neglects, or forfeitures whatsoever, as the Court of Exchequer in England or the Chancellor or Barons thereof, may or can lawfully do in England; and the said last-mentioned Governor in Council may, by any order, cause a share or proportion of any fine imposed on any person or persons for any delinquency, or misdemeanour prosecuted to judgment, to be paid over to the prosecutor towards defraying his expenses occasioned thereby, as such Governor in Council shall think fit and expedient.

CRIMINAL LAW.—CRIMPING.

Act No. XXIV. of 1852.

[*Passed on the* 14*th May*, 1852.

1. Defines who shall be deemed a crimp and what shall be crimping.

2. Defines Emigration to be departure by land or water out of the territories of E. I. Co.

3. Further defines what shall be deemed crimping.

4. Crimp punishable with fine and imprisonment.

5. Persons, by intoxication and other specified fraudulent means, inducing Emigration, to be punishable.

6, 7, 8. Hard labor may be awarded with imprisonment; and (7) shall be awarded in certain cases; and (8) prescribes additional punishment for several offences.

9. Extends the name "Magistrate" to Joint and Deputy exercising the power of Magistrate.

For amending and explaining Act XIV., 1839, and for the better prevention of crimping.

Repealed by Act XIII., 1864.

BENGAL.—CIVIL PROCEDURE.—EXECUTION OF DECREES.

Act No. XXV. of 1852.

[*Passed on the* 14*th May*, 1852.

1, 2. Directs decrees made on appeal to be executed by Court below, (2) on petition of party interested.

3. Gives an appeal against order for execution of decree made on appeal.

4. Reserves power to Sudder Court to order execution on orders of Privy Council.

5, 6. Extends Act 25, 1837, S. 8, and (6) confines Act to lower provinces.

An Act for the execution of decrees made in appeal by Her Majesty in Council, or by the Courts of Sudder Dewanny Adawlut, and of the Zillah and City Judges in the Presidency of Fort William in Bengal.

Whereas it is expedient to amend the law relating to the

execution of decrees made and passed in appeal by Her Majesty in Council, and by the Courts of Sudder Dewanny Adawlut and of the Zillah and City Judges in the Presidency of Fort William in Bengal, it is hereby enacted as follows:

I. Every decree or order in appeal of Her Majesty in Council, or of any Court of Sudder Dewanny Adawlut, or of any Zillah or City Judge, which shall be made after the passing of this Act, and also every such decree or order in appeal which has been made before the passing of this Act, and for the execution or enforcement whereof no petition has been presented, shall be enforced and executed by the Court which made the first decree or order appealed from, in the manner and according to the rules and laws applicable to the execution and enforcement of original decrees or orders made by such last-mentioned Court. [Repealed by Act X., 1861, except so far as relates to the execution of decrees made in appeal by Her Majesty in Council.]

II. Any party desirous of enforcing or obtaining execution of any such decree or order made in appeal as aforesaid, shall present a petition for that purpose to the Court which made the first decree or order appealed from, and the said petition shall be accompanied by a certified copy of the decree or order made in appeal, and sought to be enforced or executed.

III. An appeal shall lie from any decree or order made by such last-mentioned Court relating to the enforcement or execution of any such decree or order made in appeal as aforesaid in the same manner and subject to the same laws, rules and regulations as an appeal from an order or decree made upon a petition for the enforcement of execution of the decree or order first appealed from, would have been.

IV. Nothing herein contained shall be construed so as to prevent any Court of Sudder Dewanny Adawlut from enforcing or obtaining execution of a decree or order made or passed by Her Majesty in Council, if Her Majesty in Council shall think fit to decree or order the said Court of Sudder Dewanny Adawlut to enforce or execute the same.

V. The provisions of Section VIII., Act XXV., 1837, of the Bengal Code, shall extend to proceedings under this Act.

VI. This Act shall apply only to the Presidency of Fort William in Bengal.

BENGAL.—CIVIL PROCEDURE, SUDDER AMEENS AND MOONSIFFS.

ACT No. XXVI. OF 1852.

[*Passed on the 14th May*, 1852.

1. Repeals R. 23, 1814, ss. 19, 21, 22, 24, 27, 29, 35, 37, and clauses 1, 2, 3 and 5 of s. 25 of same R., also s. 73 partially; R. 5, 1831, s. 5, cl. 5, and s. 15 cl. 3, also cl. 3 of s. 8 partially, and s. 6 of same partially.

2. Applies the procedure of the Judges and P. S. Ameens in original suits to suits before S. Ameens and Moonsiffs.

3. Extends various specified regulations to Moonsiffs and S. Ameens. How they may obtain review of their own decrees.

4. Relates to suits in which Amlahs of S. Ameens and Moonsiffs are interested.

5. Saves operation of Stamp Laws.

6. Directs how execution of decrees may be applied for.

7. Directs how original suits referred to S. Ameen shall be tried, &c.

8. Act not to affect pending proceedings.

9. Extends power of Zillah Judge to order injunction, &c.

10. Confines Act to Lower Provinces.

An Act to amend the mode of procedure in the Courts of the Sudder Ameens and Moonsiffs in the Presidency of Fort William in Bengal, and to extend the powers of Principal Sudder Ameens in appeals referred to them.

Whereas it is desirable that the mode of procedure in original suits in the Courts of the Sudder Ameens and Moonsiffs in the Presidency of Fort William in Bengal, should be assimilated to the mode of procedure in such suits in the Courts of the Judges and Principal Sudder Ameens, and whereas it is desirable to extend to Principal Sudder Ameens power to issue an injunction for the revision of an original decision according to Clause 2, Section II., Regulation IX., 1831, in regard to appeals referred to them, it is hereby enacted as follows:

I. Sections XIX., XXI., XXII., XXIV., XXVII., XXIX., XXXV. and XXXVII., Regulation XXIII., 1814, and Clauses 1, 2, 3 and 5, Section XXV. of the same Regulation, and Section LXXIII. of the same Regulation, so far as it extends, Clauses 1, 2, 3, and 5, Section XXV. and Section XXXV. of the same Regulation to Sudder Ameens, Clause 5, Section V., and Clause 3, Section XV., Regulation V., 1831, and so much of Clause 3, Section VIII. of the said Regulation

V., 1831, as relates to the Clauses and Sections of Regulation XXIII., 1814, hereinbefore mentioned, and Section VI. of the said Regulation V., 1831, except in so far as it rescinds Sections LVII., LVIII. and LIX. of the said Regulation XXIII. of 1814, are hereby repealed.

Repealed by Act X., 1861, except the repealing enactments.

BOMBAY.—VILLAGE POLICE.

Act No. XXVII. of 1852.

[*Passed on the 2nd July*, 1852.

1, 2, 3. Empowers G. in C. to authorize Magistrate to authorize Heads of Villages to try the offences of (2) theft of 5 rupees, assault and abuse or disobedience of their own orders; and (3) to inflict specified punishment.

An Act to confer certain powers on Patels and other heads of Villages in the Bombay Presidency.

Whereas it is expedient to confer certain powers on Patels and other heads of Villages in the Bombay Presidency, it is hereby enacted as follows:

I. From and after the passing of this Act, it shall be lawful for the Governor in Council of Bombay, by an order in writing, to authorize any Magistrate of a Zillah to issue a Commission to any person exercising the office of Patel, or charged with the administration of criminal justice within the limits of any Town, Village, or Peth, in the said Presidency, empowering him to try any person charged with any of the offences hereinafter mentioned, and the said Magistrate shall forthwith issue the said Commission in accordance with such order.

II. It shall be lawful for every such Patel or other Officer, who shall have received from the Magistrate such Commission, as aforesaid, to try any person charged with the offence of theft, assault, or abuse, when the value of the property stolen, or the amount of damages alleged to have been sustained, does not exceed rupees five, and also to try any person charged with the offence of resisting or refusing to obey any order of such Patel or other Officer as aforesaid. Provided always, that every charge

of any such offence shall be preferred to such Patel or other Officer as aforesaid within eight days after the Commission of such offence.

III. It shall be lawful for every such Patel or other Officer, who shall have received from the Magistate such Commission as aforesaid, to order any person, convicted by him of any such offence as aforesaid, to pay a fine not exceeding five rupees, or to be placed in the stocks for any period not exceeding six hours, or to be detained in the chowkey of the Town, Village, or Peth, for any period not exceeding forty-eight hours.

IV. Such conviction shall be a bar to any other proceedings for the same offence.

BOMBAY.—POLICE.

Act No. XXVIII. of 1852.

[*Passed on the 2nd July*, 1852.

1. Repeals part of R. 13, 1827, s. 27, cl. 1, and part of s. 27, cl. 4, of same R.
2. Vests the superintendence of the Police in the G. in C. who may appoint such persons as he thinks fit.

An Act to relieve the Court of Sudder Foujdaree Adawlut at Bombay from the superintendence of the Police in that Presidency.

Whereas it is expedient to relieve the Court of Sudder Foujdaree Adawlut at Bombay from the superintendence of the Police in that Presidency, it is hereby enacted as follow:

I. So much of Clause 1., Section XXVII. of Regulation XIII. of 1827, of the Bombay Code, as enacts that the Court of Sudder Foujdaree Adawlut shall superintend the administration of Police, and so much of Clause 4, Section XXVII. of the same Regulation, as enacts that the Court of Sudder Foujdaree Adawlut shall furnish information to Government of the state of the Police in each Zillah, are hereby repealed.

II. From and after the passing of this Act, the superintendence of the Police in the said Presidency shall be vested in, and exercised by the Governor in Council of Bombay, and for the better superintendence thereof, it shall be lawful for the said Governor in Council to appoint such persons as he shall think

fit to control and superintend the said Police, subject to the Orders of the said Governor in Council, and to vest in such persons such power and authority for the purposes aforesaid, as to the said Governor in Council may seem proper.

BOMBAY.—CIRCUITS OF COMMISSIONERS.

ACT No. XXIX. OF 1852.

[*Passed on the 2nd July*, 1852.

1. Repeals R. 3, 1830, s. 9; R. 8, 1833, ss. 2, 3, 4, 5.

2, 3. Empowers G. in C. to issue commission to judges to exercise power of circuit judges, &c.

An Act to amend the law respecting the Circuits of Judicial Commissioners in the Presidency of Bombay.

Whereas it is expedient to amend the law respecting the Circuits of Judicial Commissioners in the Presidency of Bombay, it is hereby enacted as follows:

I. Section IX. of Regulation III. of 1830, and Sections II., III., IV. and V., of Regulation VIII. of 1833, of the Bombay Code, are hereby repealed.

II. It shall be lawful for the Governor in Council of Bombay to issue a Commission in writing to any one of the Judges of the Court of Sudder Foujdaree Adawlut, thereby directing and empowering him to exercise and perform all or any of the powers and duties of a Judge on Circuit, or of a visiting or Judicial Commissioner, under the provisions of Chapter IV., Regulation XIII. of 1827, Sections X., XI., and XII., Regulation III. of 1830, Section V., Regulation VIII. of 1831, and Sections VI. and VII., Regulation VIII. of 1833, of the Bombay Code, and all or any of the powers or duties now vested in, and exercised by the Court of Sudder Foujdaree Adawlut.

III. It shall be lawful for the said Governor in Council of Bombay in and by the said Commission, or by order in writing, to direct any Commissioner appointed as aforesaid to proceed on Circuit to any and such Zillahs in the said Presidency as shall be in the said Commission or order named, and to prescribe the period of his return to the Court of Sudder Foujdaree Adawlut.

NATURALIZATION OF ALIENS.

ACT No. XXX. OF 1852.

[*Passed on the 16th July*, 1852.

1. Authorizes any resident to petition for Naturalization.

2, 3, 4, 5. Describes what the petition must contain; and (3) empowers the Government to do what pleases it on such petition; and (4) to grant such privileges as it pleases by certificate, (5) which certificate shall be filed.

6. Certificate may be annulled if obtained on false statement.

7. Authorizes fees to be charged.

8, 9. Certificate to operate to give the alien the privileges of a natural subject born in India; but (9) not so as to deprive the E. I. Co.'s Courts of their jurisdiction over him.

10, 11. Prescribes an oath; and (11) certificate of its being taken to be filed.

12. Interpretation clause.

13. Permits affirmation instead of oath.

Schedule, Oath.

An Act for the Naturalization of Aliens.

Whereas it is expedient to provide for the Naturalization of Aliens resident in the Territories under the Government of the East India Company, it is enacted as follows:

I. Any person whilst actually residing in any part of the Territories under the Government of the East India Company, may present a memorial to Government, praying that the privileges of Naturalization may be conferred upon him.

II. Such memorial shall state to the best of the knowledge and belief of the memorialist, his age, place of birth, place of residence, profession, trade or occupation, the length of time during which he has resided within the said Territories, that he is settled in the said Territories, or is residing within the same with intent to settle therein, and any other particulars which the Government may require to be stated therein, and such memorial shall be in writing and signed by the memorialist, and accompanied by an affidavit sworn by him, verifying the truth of the statements contained therein.

III. The memorial shall be considered by the Government to whom it shall be presented, who shall inquire into the circumstances of the case, and may require such evidence either by affidavit or otherwise as they may deem proper in addition to the before-mentioned affidavit of the memorialist to prove the truth of the statements contained in such memorial.

IV. The Government may, if they shall think fit, issue a certificate in writing reciting such of the contents of the memorial as they may consider to be true and material, and granting to the memorialist all the rights, privileges, and capacities of Naturalization under this Act, except such rights, privileges, or capacities, if any, as may be specially excepted in such certificate.

V. The certificate shall be delivered to the memorialist; and a copy or duplicate thereof, together with the memorial upon which the same shall be obtained, and any Affidavit, which may accompany such memorial or be produced in support thereof, shall be filed by the Secretary to the Government, or such other officer as the Government may direct; and such Secretary or officer shall keep an alphabetical list of all persons who may be naturalized by such Government.

VI. If any material statement contained in such memorial shall be false, the Government may, if they think fit, by an order in writing, declare the certificate issued upon such memorial to be null and void to all intents and purposes, except such purposes, if any, as may be specially excepted in such order; and from and after such order all the rights, privileges, and capacities derived through such certificate shall cease to exist.

VII. Such fees shall be payable in respect of the proceedings hereby authorized as shall be fixed by the Government.

VIII. Upon obtaining such certificate, and taking and subscribing the oath as hereinafter prescribed, the memorialist shall within the said Territories under the Government of the East India Company be deemed a natural born subject of Her Majesty, as if he had been born within the said Territories, and shall be entitled within the said Territories to all the rights, privileges, and capacities of a subject of Her Majesty born within the said Territories, except such rights, privileges and capacities, if any, as may be specially excepted in such certificate.

IX. Nothing in this Act contained shall be construed so as to deprive the Courts of the East India Company of jurisdiction over any such naturalized person, or to give to the Courts of Her Majesty any jurisdiction over any such person not otherwise subject to such jurisdiction.

X. Within sixty days from the day of the date of such

certificate the memoralist named in such certificate shall take and subscribe the oath contained in the Schedule annexed to this Act.

XI. Such oath, as well as any other oath or affidavit required by this Act, may be administered by any Magistrate or Justice of the Peace within the limits of his jurisdiction, or by any other person to be appointed for that purpose by Government, and the person who shall administer the oath mentioned in the Schedule to this Act annexed shall grant to the memoralist a certificate in writing of his having taken and subscribed such oath, and of the date of his taking and subscribing the same, and shall forward to the Government the oath so taken and subscribed together with a duplicate of such certificate, which oath and duplicate certificate shall be filed and kept with the memorial.

XII. The word "Government," in this Act shall be deemed to mean the person or persons for the time being lawfully entitled to administer the executive Government in that part of the said territories in which the memorialist shall reside at the time of presenting such memorial. The word "Magistrate" shall include any person lawfully exercising the powers of a Magistrate, and words denoting the masculine gender shall include the feminine.

XIII. In every case in which the word "oath" or "affidavit" is used in this Act, an affirmation to the same effect as the oath or affidavit required shall be sufficient in cases where the person required to make such oath or affidavit shall be a person allowed by law to affirm in civil cases, and in every such case such affirmation shall be made before the person authorized to administer the oath, and the word "oath" or "affidavit" wherever used in this Act shall include such affirmation.

SCHEDULE.

Oath.

I, A. B., of (*here state the description of the party*) do swear (*or being one of the persons allowed by law to affirm in civil cases, do affirm*), that I will be faithful and bear true allegiance

to the Sovereign of the United Kingdom of Great Britain and Ireland, and of these Territories as dependent thereon, and that I will be true and faithful to the East India Company.

(Signed) A. B.

BENGAL.—DAROGAHS.

ACT No. XXXI. OF 1852.

[*Passed on the* 13*th August*, 1852.

Repeals R. 20, 1817, s. 16, cl. 17.

An Act to repeal Clause 17, Section XVI., Regulation XX., 1817, of the Bengal Code.

Whereas it is not expedient that Darogahs or other Police Officers should be entitled to a commission on the value of property stolen or plundered which they may recover, it is hereby enacted as follows:

I. Clause 17, Section XVI., Regulation XX., 1817, of the Bengal Code is repealed.

PROSECUTION OF PUBLIC OFFICERS

ACT No. XXXII. OF 1852.

[*Passed on the* 20*th August*, 1852.

1. Local Government or head of department may prosecute ministerial and police officers on suspicion of corruption, extortion, embezzlement, or other malversation, &c., and prosecution not to be barred by officer having ceased to be in employment of Government.

2, 3. Collector, Magistrate, &c., not to prosecute without sanction of Board &c., and (3) person prosecuting not to act as judge.

4. Saves operation of Madras R. 9, 1822, and 7, 1828, and Act 36, 1837.

An Act to facilitate the prosecution of certain Ministerial and Police Officers for certain Criminal Acts.

Whereas it is expedient to enable the local Governments and the head officers of departments or offices under Government, to prosecute their subordinate ministerial or police officers for acts of corruption, extortion, embezzlement or other malversation, whether or not any charge be preferred by an aggrieved private party in respect of such acts, it is enacted as follows:

I. Whenever the local Government or the head officer of a

department or office under Government, shall be of opinion that there are good grounds for making a public enquiry into the truth of any imputation of corruption, extortion, embezzlement, or other malversation committed at any time during tenure of office, by any ministerial or Police officer, subject to the jurisdiction of the Courts of the East India Company, and subordinate to such Government, or employed in such department or office, as the case may be, it shall be lawful for such Government, or any such head officer as aforesaid, to prosecute such officer on the part of Government in a Criminal Court, or to nominate some person to conduct such prosecution; and it shall also be lawful for such Government, or head officer as aforesaid, in their or his discretion, to undertake on the part of Government the prosecution in a Criminal Court of any such charge as aforesaid, which may be brought by an aggrieved private party against any such ministerial or police officer, and such prosecutions as aforesaid, shall not be barred, or affected, by reason of the party prosecuted having ceased to be in the service of Government at the time at which the charge may be brought against him.

II. Provided always that no Collector, Magistrate, nor head of an office in the Salt, Abkaree, or Customs Department under the grade of Commissioner, shall commence or undertake a prosecution under this Act, until he shall have obtained the permission of the Court, Board, or officer to whom he is immediately subordinate, to institute the same.

III. No Collector, Magistrate, Judge, or other officer, who may prosecute any officer under this Act, or cause such prosecution to be instituted, or who may conduct any preliminary investigation into the conduct of such officer connected with such prosecution, nor any of his deputies, assistants, or subordinate officers, shall act as judge in any such prosecution.

IV. Nothing herein contained shall be construed so as to repeal or otherwise affect Regulation IX., 1822, and VII., 1828, of the Madras Code, and Act XXXVI., 1837, and the said Regulations and Acts shall remain in full force with respect to the malversations and offences in the Revenue Department to which they are applicable.

Repealed by Act XVII., 1862, under the qualifications contained in the text of the Act.

ENFORCEMENT OF JUDGMENT.

Act No. XXXIII. of 1852.

[*Passed on the 27th August*, 1852.

1. Defines scope of the Act, viz., to provide means of obtaining satisfaction of judgment of any Court, of which satisfaction cannot be obtained within its jurisdiction.

2, 3, 4. Court, on application, to grant copy of its judgment and of order for execution, if any, and a certificate of its being unsatisfied, copy to be signed and sealed; and (3) nature and name of Court to appear; and (4) if it be the judgment of inferior Court, to be authenticated by the principal Civil Court of the district.

5, 6, 7. Copies, &c., to be transmitted to the Court of the district in which execution is required and to be filed therein; and (6) when filed, shall, for purpose of being executed, have the same force as judgment of the Court itself; and (7) shall be enforced according to the practice of the Court as respects its own judgments.

8. Provisions of this Act to extend to decrees of Military Courts of Requests, but execution not to be granted against the person of Soldier; Decree of Military Court of Requests how to be authenticated.

9. Petition for execution on decree of Moonsiff or Military Court of Requests to be on plain paper.

10. Same appeal against execution under this Act, as in other cases.

11. Interpretation of words "judgment," "party," &c.

An Act to facilitate the enforcement of Judgments in places beyond the jurisdiction of the Courts pronouncing the same.

I. Every party, who shall have obtained a judgment in any Court of Her Majesty, or of the East India Company, in any part of the Territories under the Government of the East India Company, or in any Court established by the authority of the Governor General of India in Council in the Territory of any foreign Prince or State, and who shall be unable to enforce or obtain satisfaction of the same by execution within the jurisdiction of such Court, may enforce or obtain execution of the same in any part of the said Territories under the Government of the East India Company in manner following:

II. The party may apply to the Court, which shall have pronounced such judgment, for a copy thereof, and also for a certificate that satisfaction of such judgment has not been obtained by execution within the jurisdiction of the said Court, also for a copy of any order for execution of such judgment that may have been passed, and, if necessary, for the translation of the

said judgment and order for execution into the English language. The Court, unless there be any sufficient reason to the contrary, shall cause such copy and certificate, and translation, if necessary, to be furnished, and the same shall be signed by the Judge, or one of the Judges of the Court, and sealed with the seal of the Court.

III. If such Court shall be the principal civil Court of original jurisdiction in the district, the Judge shall describe himself accordingly in the certificate, and shall also name the Court and the district.

IV. If the Court shall not be the principal civil Court of original jurisdiction in the district, the copy of the judgment and of the order for execution, if any, the certificate of the Judge, and the translation, if any, shall, without delay, be transmitted to the principal civil Court of orignal jurisdiction in the district, and the Judge, or one of the Judges of such Court shall issue a certificate under his hand and the seal of the Court, verifying the signature of the Judge of the Court in which the judgment shall have been given to the documents above-mentioned; and in such certificate the Judge signing the same shall describe himself as the Judge, or one of the Judges of the principal civil Court of the district, and shall also name the Court and the district.

V. All copies, translations and certificates, which may be furnished by, or transmitted to the principal civil Court of original jurisdiction in the district in which such judgment shall have been given, shall be transmitted by such Court without delay to the principal civil Court of original jurisdiction in the district in which the party may wish to have the judgment enforced or executed, and if such last-mentioned Court be the Supreme Court of Judicature of either of the Presidencies, to the Prothonotary of the Court; and such Court shall cause the said documents to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the translations, if any, or of the seal or jurisdiction of any Court, or of the signature of any Judge, unless the Court, to which such documents shall be transmitted, shall under any peculiar circumstances to be specified in an order, require the same.

VI. The copy of any judgment, or of any order for execution, when filed in the court to which it shall be transmitted for

the purpose of being executed or enforced as aforesaid, shall for such purpose have the same effect as a judgment or order for execution made by such Court, and may be enforced or executed by such Court, or any Court subordinate thereto, to which it may entrust the enforcement or execution thereof.

VII. When application shall be made to any of the said Courts to enforce, or execute the judgment of any other Court as aforesaid, the Court to which the application shall be made, or referred, shall proceed to enforce, or execute the same, according to its own rules and mode of procedure in like cases; and the last-mentioned Court shall take cognizance of, and punish, all wrongful acts of irregularities done or committed in enforcing and executing such judgment; and all persons disobeying or obstructing the enforcement or execution of any such judgment, shall be punishable by such last-mentioned Court, in the same manner as if the said judgment had been pronounced by such Court.

VIII. The decrees, of which execution is to be general, of any Military Courts of Requests holding within the Territories under the Government of the East India Company, or mentioned in Section XVII., Act No. XI., 1841, may be enforced in the manner provided by this Act. No such decree, however, shall be enforced under this Act against the person of the debtor, if a soldier. In the case of a decree of a Military Court of Requests, the copy, decree, and certificate, and translation, if any, shall be signed by the officer commanding the station or cantonment, who shall describe himself accordingly; and no proof of the decree, or of the signature or appointment of such officer, or of the jurisdiction of the Court, shall be necessary, unless the Court to which the same may be presented shall think fit, under any peculiar circumstances to be specified in an order, to require the same.

IX. A petition for execution under this Act of any judgment of a Moonsiff's Court, or of any decree of a Military Court of Requests, may be written on plain paper.

X. An appeal shall lie from any order for the enforcement or execution of a judgment under this Act, in the same manner, and subject to the same rules and regulations, as if the judgment had been originally given by the Court making such order.

XI. In this Act the word "judgment" means a judgment in a civil suit or proceeding, and includes any final decree or order in a civil suit or proceeding. The word "party" shall include any person who would be entitled to maintain a suit upon the judgment. The masculine gender shall include the feminine, and the singular number shall include the plural.

Explained and amended by Act XXXIV., 1855. Repealed by Act X., 1861, except as to Supreme Courts and Military Courts of Requests; and, as to Supreme Courts, superseded by the establishment of the High Courts under Letters Patent with the Code of Civil Procedure. The Act may still apply to Courts not having the Code of Civil Procedure and to Military Courts of Requests, and is therefore retained.

STRAITS' SETTLEMENTS.—GAMBLING.

ACT No. XXXIV. OF 1852.

[*Passed on the 10th September*, 1852.

1. Penalty on conviction before Quarter Sessions, viz., imprisonment with or without hard labour for six months or less, or fine 500 dollars, and in default of payment, imprisonment, &c. Persons liable, viz., the keeper of common gaming-house or room, &c., used for same purpose, and persons conducting business thereof, as banker, shroff, croupier, or otherwise, &c.

2. Defines what shall be sufficient proof of house, &c., being common gaming-house, viz., proof of user, &c., of house, &c., for playing any unlawful game, and that a bank is kept, or that chances, &c., are not equally favourable for all players, &c.

3. Penalty on persons found in common gaming-house, playing, &c., or found gaming, &c., viz., imprisonment 3 months or less, or fine 200 dollars, &c., and in default of payment, imprisonment, &c.

4, 5. Justice, on information on oath, of suspected common gaming-house may issue search warrant, with specified powers to officers; and (5) peace officer on view of offence, may exercise specified powers without warrant, &c.

6, 7. Cards and other instruments of gaming found in suspected house, to be *primâ facie* proof against the house and persons found therein; and (7) on conviction, instruments of gaming to be destroyed, &c.

8. Officer seeing persons in act of gaming in any common gaming-house, street, &c., may arrest them, and seize the instruments of gaming, &c.

9. Proof of playing for money or stakes not necessary to convict of gaming, &c.

10. Approvers under this Act exempt from prosecution.

11. Empowers J. P. to issue warrant against persons, on information laid, &c.

12. Act not to apply to games of mere skill played at places of public resort, &c.

13. Conviction not to be quashed, &c., for want of form, nor removed by Certiorari, &c.

14. One fourth of fine may be given to informer, the rest shall be applied to municipal purposes.

An Act for the prevention of Gambling in the Settlement of Prince Wales' Island, Singapore, and Malacca.

Repealed by Act XIII., 1856.

AKYAB AND KYOUK PHYOO.—TAXATION.

Act No. XXXV. of 1852.

[*Passed on the 1st October*, 1852.

1. Abolishes Poll Tax after 1st of May, 1853.

2, 3, 4. Directs assessment of Dwelling-houses at specified rate, payable half yearly; and (3) in case of non-payment, leviable by distress and sale of goods after demand; and (4) which demand shall be made in specified manner.

5, 6. Gives powers necessary for purpose of making the assessment; and (6) of numbering the premises.

7. Tenant paying the assessment, may deduct it from his rent.

8. Empowers Commissioner to exempt any building from assessment.

9. Validity of assessment not to be affected by formal defects, nor proceedings under Act to be quashed for want of form, &c., nor removeable by Certiorari.

10. Gives appeal to Commissioner.

11. Defines boundaries of Akyab and Kyouk Phyoo.

An Act for the abolition of the Poll Tax within the towns of Akyab and Kyouk Phyoo, in the province of Arracan, and for levying a tax on lands covered by dwelling-houses within those towns.

Whereas it is expedient to abolish the poll tax now levied within the towns of Akyab and Kyouk Phyoo, in the Province of Arracan, and instead thereof, to levy a tax upon land covered by dwelling-houses within the said towns, it is enacted as follows:

I. After the First day of May, 1853, the levy of a poll tax within the towns Akyab and Kyouk Phyoo, in the Province of Arracan, shall cease.

II. After the said First day of May, 1853, a principal assistant of the district, in which the same shall be situate, shall, from time to time, as he shall think fit, assess every dwelling-house within the aforesaid towns of Akyab and Kyouk Phyoo, respectively, at the rate of one pie and a half for every square cubit of land covered by such dwelling-house; the length of the cubit being estimated at eighteen inches: the amount of the said assessment shall be payable every year by the owner or occupier of such dwelling-house, by equal half-yearly payments to be made in advance.

III. In case of non-payment of the amount assessed upon any dwelling-house within eight days after the same shall have been demanded as hereinafter mentioned, it shall be lawful for a principal assistant of the district in which such dwelling-house shall be situate, to cause such amount, or so much thereof as shall remain unpaid, together with a reasonable sum for costs, to be levied by distress and sale of the goods and chattels, to whomsoever belonging, found in such dwelling-house, or upon the goods or chattels of the owner thereof, wheresoever they may be found within the said towns, respectively; or the owner of the said dwelling-house may be sued for the amount: provided that no distress shall be made upon the goods and chattels of any person, other than the owner of the dwelling-house, for more than the arrears of assessment for the preceding year.

IV. The demand above referred to shall be made in manner following:—A written demand, signed by a principal assistant of the district, or some officer authorized by him in that behalf, identifying the dwelling-house, and specifying the amount claimed, the dimensions of the land covered by the dwelling-house, and the period in respect of which the amount is claimed, shall be delivered by the Officer appointed to collect the same to the tenant, or occupier of the said dwelling-house, or in case the demand cannot be delivered to such tenant or occupier, or there be no tenant or occupier, the same may be fixed to some conspicuous part of the dwelling-house.

V. It shall be lawful for a principal assistant of the district in which any such dwelling-house shall be situate, or any officer who may be authorized so to do, by writing, signed by such principal assistant, at any reasonable time in the day time, to

enter into such dwelling-house, or any land adjoining thereto, in order to measure, or ascertain the extent of land covered by such dwelling-house.

VI. It shall be lawful for a principal assistant of the district in which any dwelling-house liable to be assessed under this Act shall be situate to cause a number to be painted on, or affixed to such dwelling-house, for the better identifying the same; and if any person shall willfully remove, obliterate, or destroy such number, he shall be punishable by the principal assistant, or a magistrate, or any officer lawfully having the powers of a magistrate, by a fine, not exceeding twenty rupees for every such offence, and in case of non-payment thereof, by imprisonment for any term not exceeding fifteen days.

VII. In case the amount of the said assessment, or any part thereof, shall be paid by any tenant, or the same be levied by seizure and sale of his goods and chattels, such tenant may deduct the amount of the payment or levy from the rent then due, or thereafter to become due, to his landlord; and such deduction shall be equivalent to payment of that amount; and the owner of any dwelling-house shall indemnify any person whose goods may be distrained for any assessment thereon or who may pay such assessment in order to avoid a distress or sale of his goods for such assessment.

VIII. The Commissioner of Arracan may, at his discretion, exempt any building from assessment.

IX. No assessment made under the authority of this Act shall be impeached or affected by reason of any mistake in the name of any person liable to assessment, or of any thing chargeable with assessment, provided the directions of this Act to be in substance and effect complied with; and no assessment nor proceedings, nor other matter or thing had or done under this Act shall be removed by *certiorari*, or quashed, or set aside, for want of form or error of procedure in any Court of Justice, but only on the merits.

X. An appeal shall lie to the Commissioner of Arracan by any one who shall feel aggrieved by anything done under this Act.

XI. For the purposes of this Act, the following shall be the boundaries of the towns of Akyab and Kyouk Phyoo, viz:

The boundaries of Akyab—to the north, the Charoogya

creek; to the west, the said creek and a road running west and south until it joins the Bund called Morton's Bund, which leads down to the sea shore; to the south, the sea; to the east, the Akyab river and harbour.

The boundaries of Kyouk Phyoo—to the north, the sea; to the east, Oon Khyoung or Salt Golah creek; to the west, the Cantonments; to the south, Kulabadong Lands, Kangyeedan Village, and Nga Tsoung's Grant.

MADRAS AND BOMBAY.—CORPORAL PUNISHMENTS.

Act No. I. of 1853.

[*Passed on the 4th February*, 1853.

Recites expediency of substituting corporal punishment for imprisonment in certain cases of petty thefts: Enacts:

1, 2. Magistrate, &c., of Madras or Bombay shall on conviction of theft not exceeding 50 rupees, if convict be a male and of tender years sentence to punishment not exceeding 10 stripes with a light rattan on palm or back (2) to be inflicted in the presence of the convicting Magistrate.

An Act for providing in the Presidencies of Fort St George and Bombay for the punishment of Males of tender age for Petty Thefts.

Repealed by Act XVII., 1862. Corporal Punishment of Juvenile Offenders is revived by Act VI., 1864.

BURDENS ON LAND.

Act No. II. of 1853.

[*Passed on the 4th February*, 1853.

Recites Act 4, 1837, which opens the Territories of the E. I. Co. to British people; also recites doubts as to liability of British people to certain local boundaries incident to landholding. Enacts:

1. Abolishes exemptions of any person by reason of place of birth or descent, from any public charge or assessment or any duty of any kind of a public nature.

2. Every person to be subject to same laws and jurisdictions as natives, in respect of any default of public duty.

An Act to remove doubts as to the liability of all subjects of Her Majesty to the same jurisdictions as Natives in respect of public and Police duties and public charges incident to the holders of land or their local Agents or Managers.

Whereas by virtue of Act No. IV., 1837, it is lawful for any subject of Her Majesty to acquire and hold in perpetuity, or for any term of years, property in land, or in any emoluments issuing out of land, in any part of the Territories under the Government of the East India Company; and whereas doubts have arisen whether all subjects of Her Majesty acquiring or holding property in land, or in any emoluments issuing out of land, or acting as local Agents or Managers of such property, are subject to the same jurisdictions as Natives for enforcing the discharge of public and Police duties incident to the holding of such property, or for the enforcement of public charges and assessments upon or in respect thereof; and whereas it is just and reasonable that all persons who may think fit to hold such property, or to be the local Agents or Managers thereof, should be liable to the public burthens and duties incident thereto, and in case of neglect or refusal to discharge the same, should be subject to the same jurisdictions as Natives, it is therefore declared and enacted as follows:

I. No person whatever, being the owner, holder, or farmer of any property in land, or in any emoluments issuing out of land, in any part of the said Territories, whether in perpetuity or for a term, or, being a local Agent or Manager of any such property, is by reason of his place of birth, or by reason of his descent, exempt from any public charge or assessment, or from any duty connected with the Police, or with the Salt or Opium revenue, or from any duty whatsoever of a public nature, to which he would otherwise be subject, as the owner or holder of such property, or as a local Agent or Manager thereof.

II. For the non-payment of any such public charge or assessment, or for the breach of any such duty, as aforesaid, or for any neglect or misconduct in the discharge thereof, every person, whatever may have been his place of birth, or his descent, shall be subject to the same laws, regulations, and procedure, and to the same jurisdiction as if he were a Native of the said Territories.

GREAT INDIAN PENINSULAR RAILWAY COMPANY.

ACT No. III. OF 1853.

[*Passed on the 11th March*, 1853.

Recites expediency of providing rules for regulating Railway, preventing fraud on the Company, &c. Enacts:

1. No person to enter carriage without a ticket. Ticket to specify what, to be shown when required, and delivered up at end of journey. Passenger without ticket to pay full fare.

2. Rule in case of tickets being issued at intermediate stations for persons for whom there is not room when the train comes.

3. Establishes a penalty of 20 rupees against persons attempting to defraud the Company by taking places without paying.

4. Establishes penalty of 20 rupees against persons attempting to get upon or quit a carriage when in motion.

5. Establishes penalty of 20 rupees against any person attempting to ride on locomotive engine or tender, &c., without special license.

6. Prohibits smoking in carriages except those in which it is permitted by regulation, and authorizes removal of person who insists on smoking contrary to regulation.

7. Establishes penalty against persons found in carriage, &c., in state of intoxication, &c., or committing nuisance, &c., and such person may also be removed.

8. Establishes penalty against male persons who enter carriage specially appropriated to females.

9. Company not to be answerable for passengers' luggage unless it has been booked and paid for.

10. Empowers the Company to sell goods for price of carriage if not paid on demand.

11, 12. Entitles the Company to require from persons bringing any goods for carriage an exact account in writing of number and quantity thereof: and (12) in default of giving such account to pay penalty.

13. Company may refuse to carry goods which they may deem or suspect to be of a dangerous character, and persons carrying such goods to be liable to penalty.

14. Establishes penalty against persons obstructing servant of the Company in his duty.

15. Trespassers on lands, &c., of Company to be liable to a penalty: to a further penalty if they do not quit on request, and they may be removed.

16. Persons taking beasts, &c., across the railway except at appointed crossings to be liable to penalty.

17. Owners of animals straying on railway to be liable to penalty.

18. Establishes penalty against persons removing, &c., lamps, damaging, &c., carriages, &c., and makes them liable to indemnify Company.

19. Establishes penalty against person who has a gate opening on the railway, if he opens or passes through the same, &c., when train is in sight, and under other specified circumstances.

20. Persons liable to penalties, but whose name and address are unknown, may be detained and taken before Magistrate.

21. Persons wilfully doing or omitting to do any thing with intention or likelihood thereby of causing engine, &c., to be obstructed, &c., and life, &c., endangered, are to be liable to transportation or imprisonment.

22. Servants of the Company omitting or doing any act, whereby life or limb of a passenger shall be endangered, liable to imprisonment.

23. Servants of the Company in a state of intoxication while performing duty, the ill performance of which may endanger life, &c., to be liable to imprisonment.

24. Defines the legal obligations of servants of the Company, in respect of which they may become criminally liable under this Act.

An Act relating to the Railway belonging to the Great Indian Peninsula Railway Company in the Presidency of Bombay.

Repealed by Act XVIII., 1854, section 39.

MADRAS.—TOBACCO MONOPOLY.

ACT No. IV. OF 1853.

[*Passed on the* 11*th March*, 1853.

Recites expediency of abolishing the Tobacco Monopoly in Coimbatore, Malabar and Canara, and repeals for that purpose, Madras R. 7 and 8 of 1811, and parts of R. 5, 1831.

An Act for the abolition of the Government Monopoly of Tobacco in the Provinces of Coimbatore, Malabar and Canara.

Whereas it has been deemed expedient, that the Monopoly of Tobacco in the Provinces of Coimbatore, Malabar and Canara, shall be abolished, Regulations VII. and VIII. of 1811, and such parts of Regulation V. of 1831, of the Madras Code, as relate to the said monopoly, are hereby rescinded.

PRINCE OF WALES' ISLAND, SINGAPORE AND MALACCA.—JUSTICES.

ACT No. V. OF 1853.

[*Passed on the* 18*th March*, 1853.

Repeals last proviso of sec. 7 of Act 4, 1839; prohibits J. P. from having a voice in case in which he is the party aggrieved.

An Act for the amendment of Act No. IV. of 1839.

From the passing of this Act so much of Section VII. of Act No. IV. of 1839, as enacts that "no Justice of the Peace, being a proprietor or renter of a spice plantation or otherwise directly interested in the enforcement of the provisions of the said Act, shall sit and have a deliberative voice in the Court of Quarter Session when held at a Station where such Justice may be so interested," is repealed. Provided that no Justice of the Peace shall sit and have a deliberative voice in any case in which he may be the party aggrieved.

BENGAL.—SUMMARY SUITS AND SALES OF PUTNEE TALOOK IN EXECUTION.

Act No. VI. of 1853.

[*Passed on the 15th April*, 1853.

Recites transfer of Summary Suits from Judge to Collector, &c., and doubts in certain cases. Enacts:

1, 2. If lands the subject of sale and under one tenure are situate in 2 Collectorates, the sale to be by Collector in whose jurisdiction the greater part lies; and (2) doubt as to the Collectorate in which the lands or greater part lie, to be decided by Board of Revenue.

3, 4, 5, 6. Defines the meaning of the word "Collectorate," and (4) defines independent deputy to the Collector; and (5) who is to be deemed an independent deputy; and (6) authorizes notice of sale to be stuck up at cutcherry of independent deputy.

7. What powers an independent deputy may exercise, and within what parts.

8. Notices to be stuck up at the Adawlut of the Zillah in which sale is to be made.

9. Gives validity to orders, sales, &c., made by improper Collector, and to insufficient notices before this Act, unless proceedings to invalidate have been commenced.

10. Extends Act 25, 1850, and B. R. 8, 1819, s. 9, subject to modification under B. R. 7, 1832, s. 16, c. 1, and Act 25, 1850, to all sales under Act 8, 1835.

An Act relating to summary Suits for Arrears of rent, to sales of Putnee Talooks, and other saleable tenures, and to sales of land in satisfaction of Summary Decrees for rent.

Whereas, by Regulation VIII., 1831, of the Bengal Code, the hearing and decision of Summary Suits or claims relating to arrears or exactions of rents were transferred from the Judges of the Zillah or City Courts to the Collectors of Land Revenue of the several districts; and whereas by Regulation VII., 1832, of the Bengal Code, the conduct of sales of Putnee Talooks and other saleable tenures, under Regulations VIII., 1819, and I., 1820, of the same Code, and the performance of other acts preparatory to, or connected with, such sales, were transferred to the Collector or Deputy Collector of Land Revenue, or Head Assistant to the Collector or Deputy Collector, subject to an appeal as therein provided; and whereas by Act VIII., 1835, the power theretofore vested in the Judges of the Dewanny Adawlut of selling land in satisfaction of Summary Decrees for rent was transferred to the Collectors of Land Revenue, and it was enacted that all sales for the recovery of arrears of rent held under Clause 7, Section XV., Regulation VII., 1799, should be conducted by the Collector, his Deputy, or duly authorized Assistant, and that ten days' notice should be given of such sales by advertisement to be stuck up at the Cutcherry of the Zillah Court or Local Adawlut, and that of the Collector; and whereas it is expedient that Act XXV., 1850, and Section IX., Regulation VIII., 1819, of the Bengal Code, as modified by Clause I., Section XVI., Regulation VII., 1832, of the same Code, and as altered by the said Act XXV., 1850, should be extended to sales under Act VIII., 1835; and whereas doubts may be entertained as to who ought to exercise the jurisdiction transferred by the above-mentioned Regulations and Acts, where lands situate within the Zillah or other district of one Collector, form part of an entire estate, paying revenue to the Collector of another Zillah or district: In order therefore to avoid such doubts, and also to define who are the proper Officers to exercise such jurisdictions in cases where lands are situate in a district assigned to an independent Deputy Collector, and also in cases where lands held in Putnee, or other tenure, at one entire rent, are situate in two or more Collectorates, and to prevent any such decision or sale already made from being held invalid, upon the ground of its having been made by an Officer of a wrong district, it is enacted as follows:

I. If the lands which may be the subject of any such sale, or to the rent of which any such suit may relate, be all situate in one Collectorate, the Collector of such Collectorate is the Collector to conduct the sale, or to hear and decide the suit. If one Talook or tenure shall comprise lands situate in two or more Collectorates, or if any lands situate in two or more Collectorates be held under one lease or engagement, or at one entire rent, the Collector, in whose Collectorate the greater part of such lands shall be situate, is the Collector to conduct the sale of such Talook, or tenure, or of such lands, and to hear and decide any summary suit relating to arrears or exactions of rent in respect thereof.

II. If a Collector, to whom application shall be made to exercise any of the powers above mentioned, shall entertain any doubt as to whether the lands or the greater part of them are situate within his Collectorate, he shall report the case for the order of the Board to which he is subordinate, and if ordered by such Board to proceed in the matter, such order shall be conclusive upon the question of his jurisdiction.

III. The word "Collectorate" in this Act means the Zillah or other district, to which a Collector is appointed, and no lands situate beyond the limits of such Zillah or district shall be deemed to be situate within the Collectorate, by reason of their forming part of an estate paying revenue to the Collector thereof.

IV. An independent Deputy Collector may, within his Deputy Collectorate, exercise all the powers and jurisdictions of a Collector with which he may be intrusted, in the same manner and to the same extent as a Collector may do within his Collectorate, and with reference to the exercise of such powers and jurisdictions, his Deputy Collectorate shall be deemed a Collectorate, and he shall be deemed to be a Collector within the meaning of this Act.

V. An Independent Deputy Collector is an Officer appointed by Government to act as Deputy Collector, independently of a Collector, whether his Office is one for the receipt of revenue or not. A Deputy Collectorate is the district within which an independent Deputy Collector is directed by Government to act.

VI. In cases of sales by an independent Deputy Collector, under the above-mentioned Regulations or Act, any notice thereby

required to be stuck up at the Cutcherry of the Collector, may be stuck up at the Cutcherry of the Deputy Collector.

VII. An independent Deputy Collector may exercise the powers assigned to him over any part of his Deputy Collectorate in public Cutcherry, in whatever part of his Deputy Collectorate the same may be situate or held.

VIII. Any notice required by the above-mentioned Regulations or Act, to be given by advertisement to be stuck up at the Cutcherry of the Zillah Court or Local Adawlut shall be stuck up at the Zillah Court or Local Adawlut within the jurisdiction of which the lands to be sold, or the greater portion of them, as the case may be, shall be situate.

IX. No order, decision, or sale, made in the discharge of any of the duties aforesaid under any of the aforesaid Regulations, or under the aforesaid Act, before the passing of this Act, shall be disputed, or deemed invalid, upon the ground that the Collector, Deputy Collector or other Officer making the same, was not the Collector, Deputy Collector or Officer of the proper district; or upon the ground that the Cutcherry, at which notice of such sale was given, was not the Cutcherry of the proper district, unless proceedings shall, previously to the passing of this Act, have been commenced, for the purpose of disputing the validity of such order, decision, or sale, upon such ground.

X. Act XXV., 1850, and Section IX., Regulation VIII., 1819, of the Bengal Code, as modified by Clause 1, Section XVI., Regulation VII., 1832, of the same Code, except so far as the same has been altered by the said Act XXV., 1850, are hereby extended to all sales under Act VIII., 1835. [Repealed by Act VIII., 1865, of the Bengal Council, except so far as it repeals, &c.]

Act IX., 1853, restricts the operation of the first 8 Sections of this Act, but is now obsolete.

CRIMINAL JURISDICTION OVER BRITISH SUBJECTS.

Act No. VII. of 1853.

[*Passed on the 15th April*, 1853.

Recites 53 G. 3, c. 155, s. 105, and expediency of extending the same subject to the amendments thereof by Act 4, 1843, to cases of specified offences against the property of any person whether native or otherwise. Enacts:

1. Extends the provisions of recited Statute and Act to all cases of assault, &c., not being felonies committed beyond the Presidency towns, by British subjects or others against any person or property whatever.
2. Joint Magistrates to have jurisdiction in such cases as Magistrates.

An Act to extend the jurisdiction of Magistrates, under the 53rd George 3rd, Cap. 155, Sec. 105, in cases of assaults, forcible entries, and other injuries accompanied with force, not being felonies.

Whereas, by an Act passed in the 53rd year of the reign of King George the 3rd, it was enacted, amongst other things, that it should be lawful for any Native of India resident in the East Indies or parts therein mentioned, and out of the Towns of Calcutta, Madras, and Bombay, in case of any assault, forcible entry, or other injury accompanied with force, not being felony, alleged to have been done against his person or property by a British subject, to complain of such assault, forcible entry, or other injury accompanied with force, not being felony, to the Magistrate of the Zillah, or district where the alleged offender should be resident, or in which such offence should have been committed, and that such Magistrate should have the power and authority therein mentioned: and whereas Natives of India, resident in the East Indies, upon complaints preferred by them under the aforesaid provisions of the said Act, may be prevented from obtaining redress under the same, by reason of their inability to prove the place of their birth; and whereas it is expedient to extend the aforesaid provisions of the said Act as amended by Act IV., 1843, to cases of assault, forcible entries, and other injuries accompanied with force, not being felonies, committed in any part of the Territories under the Government of the East India Company, not being within the said Towns of Calcutta or Madras, or the Islands of Bombay and Colaba, or the Settlement of Prince of Wales' Island, Singapore, and Malacca, against the person or property of any person whatever, whether Native of India or not, it is enacted as follows:

I. The provisions of the said Act of the 53rd of George 3rd, and of Act IV., 1843, so far as the said provisions extend to cases of assault, forcible entries, or other injuries accompanied with force, not being felonies, against the person or property of any Native of India, are hereby extended to the case of any

assault, forcible entry, or other injury accompanied with force, not being felony, which may at any time hereafter be committed in any part of the Territories under Government of the East India Company, not being within the said Towns of Calcutta or Madras, the said Islands of Bombay and Colaba, or the said Settlement of Prince of Wales' Island, Singapore, and Malacca, by any British subject or other person, against the person or property of any person whatever.

II. The powers in such cases given to the Magistrate of the Zillah or district, may be lawfully exercised by any Joint Magistrate or other person lawfully exercising the powers of a Magistrate, in the case of any such offence as aforesaid, which may hereafter be committed within the district over which his authority extends.

This Act is an extension of Act IV., 1843, which is repealed. Query, Is this Act consequentially repealed? I do not find that it is expressly repealed.

LAPSED STATE OF COLABA.

ACT NO. VIII. OF 1853.

[*Passed on the* 15*th April*, 1853.

1. Repeals Act 17, 1844, and makes the State of Colaba subject to all Regulations in force generally.

2. Subjects of suits specified under 5 classes not to be subject to civil court in Colaba.

3. Empowers the Bombay Government to exempt in matter of civil suit Yeshudabaee Saheb Angria from the jurisdiction of the civil courts and to make her amenable to an agent to be appointed for the purpose.

An Act for bringing the lapsed State of Colaba under the Laws of the Presidency of Bombay.

Whereas it is no longer necessary that the lapsed State of Colaba should be exempted from the general rules of the British Administration, it is hereby enacted as follows:

I. From and after such day as shall be appointed in that behalf by the Governor of Bombay in Council, by Proclamation to be made and published in the Bombay Gazette, Act XVII., 1844, shall be repealed, and the lapsed State of Colaba mentioned

in that Act shall be subject to all Regulations and Acts which are, or shall be, in force within the Territories subject to the Presidency of Bombay.

II. Suits on the following subjects shall not be cognizable by the Civil Courts within the said lapsed State of Colaba:—

1st. All claims for damages against persons in authority under the late Government, for abuse of power during that period.

2nd. All claims against Government on account of Enams.

3rd. All claims against Government on account of Jagheers, Wurshasuns, Pensions, Nemnooks and other advantages not hereditary.

4th. All disputes regarding Public Rent or Revenue payable to Government, and all complaints of exaction by Mamlutdars, or District or Village Officers.

5th. All claims on account of village debts, all village boundary disputes, and village disputes regarding the use of wells and water-courses.

III. The Governor of Bombay in Council is empowered to exempt from the jurisdiction of the Civil Courts, in all matters partaking of the nature of a Civil suit, Yeshudabace Saheb Agria, a relative of the late Angria Sirkell, and to declare this lady amenable to the authority of an Agent whom he may appoint for this purpose.

BENGAL.—SUMMARY SUITS AND SALES OF PUTNEE TALOOKS IN EXECUTION.

Act No. IX. of 1853.

[*Passed on the 22th April,* 1853.

Limits operation of Act 6, 1853, to future sales.

An Act to amend Act No. VI., 1853.

It is hereby enacted, that the first eight Sections of Act No. VI. of 1853, shall not extend to any case in which a petition for the sale of any saleable tenure was presented on the First day of Bysack, 1260, of the Bengal era, nor to any case in which any proceedings were pending at the time of the passing of the said Act.

BENGAL.—EASTERN CANAL TOLLS.

ACT No. X. OF 1853.

[*Passed on the 15th July*, 1853.

1. Repeals s. 4 of Act 22, 1836.

2. Empowers Government to regulate the time for boats, &c., to remain in the canal and to establish demurrage charges.

3. Extends to demands under this Act the provisions of Act 22, 1836.

An Act to amend Act No. XXII. of 1836.

Whereas it is expedient to prevent boats, rafts and floats from remaining longer than necessary, in any part of the lines of Navigation described in Act No. XXII. of 1836, it is enacted as follows:

I. Section IV. of the said Act is repealed, except as to rent now due under any order or notification made in pursuance of the provisions thereof.

II. The Governor of Bengal shall be competent to prescribe the length of time during which boats, rafts or floats may remain in any part of either of the lines of Navigation aforesaid without paying rent or demurrage, and also the rate of rent or demurrage to be levied on any boat, raft or float which shall remain therein longer than the prescribed time.

III. The provisions of Sections VII., VIII., and IX. of the said Act, so far as they apply to rent, are hereby extended to the rent or demurrage to be prescribed in pursuance of this Act.

BOMBAY AND COLABA.—NUISANCES.

ACT No. XI. OF 1853.

[*Passed on the 15th July*, 1853.

1. Empowers the Collector, &c., to require the removal of Nuisances, &c., in the harbour, &c., and in default to abate them himself.

2, 3, 4. Authorizes the proprietor of the Nuisance on receipt of notice from Collector to apply by petition to Supreme Court, to stop proceedings of Collector, &c. (3), the onus probandi to lie on petitioner to prove his allegations. (4) petition to be presented within a month, except under special circumstances.

5. Prescribes mode of proceeding in case of no petition being presented or of petition being decided against petitioner.

7. Empowers Collector to sell materials of encroachment.

8. Saves rights of E. I. Co. as trustees for the Crown, &c.

9. Defines the term "high-water mark."
Schedule. 1. Notice. 2. Warrant.

An Act to facilitate the removal of Nuisances and Encroachments below High-water Mark in the Islands of Bombay and Colaba.

Whereas there is a large sea-shore in the Islands of Bombay and Colaba, and it is expedient, with a view to the safe Navigation of the Harbour of Bombay, and to the public interests generally, to facilitate the removal of nuisances, obstructions and encroachments below high-water mark in the said Harbour, or upon or about the shores of the said Islands, it is enacted as follows:

I. It shall be lawful for the Collector of Land Revenue at Bombay to give notice requiring the removal of any nuisance, obstruction or encroachment anywhere below high-water mark in the said Harbour of Bombay, or upon or about the shores of the said Islands; such notice shall be given by affixing the same in some conspicuous place on or near to the encroachment, obstruction or nuisance complained of, and by publication thereof in the "Bombay Government Gazette," and shall state that unless the nuisance, obstruction or encroachment be removed or abated within one month, the same will be removed or abated by the said Collector; such notice may be in the Form No. 1, in the Schedule to this Act annexed, or to the like effect.

II. If any person shall deny the right of the said Collector to effect such abatement or removal, he shall, within one month after such notice shall have been given as aforesaid, apply to the Supreme Court of Judicature at Bombay, by petition, setting forth the grounds of his alleged right, and praying that the said Collector may be restrained from causing such abatement or removal, and the said Court may thereupon (on the petitioner's giving sufficient security for costs), fix a time for hearing and adjudicating upon such petition, and give such directions, and make such orders as the said Court may think just, and the said Court may also make an order for restraining the alleged nuisance, obstruction, or encroachment from being extended, or from being abated or removed by the said Collector, until after adjudication upon the said petition, or the dismissal thereof for want of prosecution.

III. Upon the hearing of every such petition, the onus of proving the alleged right shall be on the petitioner.

IV. No person shall be allowed after the expiration of such period of one month to present any such petition as aforesaid unless on satisfactorily accounting to the said Court for the delay.

V. If no such petition shall be presented within said period of one month, or if the same be presented and determined against the right of the petitioner, or be dismissed for want of prosecution, it shall be lawful for the Collector to cause such abatement or removal as aforesaid, by any person or persons to be authorized by warrant under his hand, and such warrant may be in the Form No. 2, in the Schedule to this Act annexed, or to the like effect; and the said Collector, and any person acting under his warrant, shall not be answerable for any damage unavoidably occasioned in the removal of any such nuisance, obstruction or encroachment.

VI. The said Collector may sell the materials of any encroachment or obstruction removed under this Act, and may apply the proceeds of sale in or towards payment of the expenses of the removal, and if any surplus shall remain, the same shall be forfeited, and be paid and applied in such manner as the Governor of Bombay in Council shall direct.

VII. Nothing in this Act shall prejudice or affect the rights of the East India Company as trustees for the Crown in any part of the said Harbour, or of the sea-shore of the said Islands, or preclude or interfere with any such proceedings, civil or criminal, for abating such nuisances and encroachments as aforesaid, as might have been had if this Act had not been passed.

VIII. The words "high-water mark" in this Act shall mean the ordinary line of high water at monsoon tides.

SCHEDULE.

FORM No. 1.

Notice is hereby given by the Collector of Land Revenue in Bombay, under Act No. XI. of 1853, that (*describe the encroachment*) is to be removed or abated within one month from the date hereof, otherwise the same will be removed or abated by the said Collector under the authority of the said Act. Dated the day of in the year of our Lord

(*Signature of Collector.*)

FORM No. 2.

This Warrant, granted by the Collector of Land Revenue in Bombay, under Act No. XI. of 1853, is to authorize of to remove (*describe encroachment.*)

Dated

(*Signature of Collector.*)

Repealed by Act XXII., 1855, s. 2, as to obstructions affecting the Navigation of the Port.

GREAT INDIAN PENINSULA RAILWAY COMPANY.

ACT No. XII. OF 1853.

[*Passed on the 22nd July*, 1853.

1, 2. Empowers Magistrates within the islands of Bombay and Colaba to punish offences under Act III., 1853; (2) like provisions as to deputy and assistant Magistrates.

3. Fines recoverable in same manner as penalties.

An Act supplemental to Act No. III. of 1853, relating to the Great Indian Peninsula Railway Company in the Presidency of Bombay.

Repealed by Act XVIII., 1854, s. 39.

BOMBAY.—VISHALGHUR.

ACT No. XIII. OF 1853.

[*Passed on the 29th July*, 1853.

Recites that the possessions of Chief of Vishalghur, &c., have been added to the British:

1. Brings all the places mentioned in Schedule under the Bombay regulations, &c.

2. Retrospectively from February, 1845, brings under the regulations certain specified land formerly belonging to Scindia, &c.

Schedules.

An Act for bringing under the operation of the Regulations and Acts in force in the Presidency of Bombay, certain Territories subordinate to that Presidency.

Whereas the possessions of the Chief of Vishalghur, situate below the Ghauts in the Southern Concan, have been added to the British Territories:

I. It is hereby enacted, that from and after the 1st day of September, 1853, the villages and hamlets mentioned in the annexed Schedule shall be subject to all Regulations and Acts which are, or shall be, in force within the Territories subject to the Presidency of Bombay.

II. It is hereby further enacted, that the Purgunnahs of Yawul Chopra, and Pachora, and the Turf of Lohara, in the Province of Khandesh, formerly belonging to His Highness Scindia, and which have been permanently ceded to the British Government, shall be deemed to have been subject, from the 26th of February, 1845, to the Regulations and Acts in force in the Bombay Presidency, to the same extent as if the said Purgunnahs and Turf had not been transferred to His Highness Scindia after the passing of Regulation XXIX. of 1827, of the Bombay Code, and shall continue to be subject to the extent to all Regulations and Acts which are or shall be in force within the Territories subject to the Presidency of Bombay.

SCHEDULE.

Territorial description of the villages forming the Ghera of the Vishalghur Fort, formerly belonging to the Pritinidhee of Vishalghur: they are bounded on the East by the Syhadree range, on the South and West by the Lanje Turf of the Rutnaghirree District, on the North by the Dewulé Turf of the Rutnaghirree District.

The Ghera is comprised of the under-mentioned villages and hamlets, 19:

1 Mouza Deode.
2 Ditto Bhudkumbé.
3 Ditto Wanjolee.
4 Ditto Kochré.
5 Ditto Veerowlee Boozoorg and Gowil.
6 Ditto Kolé Wadee.
7 Ditto Paloo.
8 Ditto Salpé.
9 Ditto Keirbet.
10 Wadee Ranjun.
11 Wadee Udhistee.
12 Ditto Chinchoortee.
13 Ditto Wud.
14 Mouzah Moorshee.
15 Ditto Bhowde.
16 Wadee Tipowné,
17 Khor Ninks Prudha Wulla.
18 Wadee Oombrowne.
19 Ditto Manchal.

INDIAN NAVY.

Act No. XIV. of 1853.

[*Passed on the* 21*st October*, 1853.

Recites expediency of providing for the due administration of effects of Officers, &c., belonging to Indian Marine dying out of the U. K. Enacts :

1. Inventory of effects of Commissioned Officer dying, &c., to be made by specified Officer and transmitted together with an account of his debts and credits to Secretary of Government of Bombay.

2. Effects of non-commissioned Officers, Seamen, &c., to be collected and how applied.

3. If death happens while the Officer or Seaman is on detached duty in another Ship, the course prescribed above to be followed both in the Ship in which the death happens and in the Ship to which the deceased belonged.

4. Officer, &c., dying within the Presidency of Bombay away from his Ship and elsewhere than on temporary duty in another Ship, Commander-in-Chief of Indian Navy to appoint a Committee of three Officers for the purposes above prescribed.

5. Obliges Officers to do the service required by this Act.

6. Confiscates the surplus effects of Deserters to the East India Company.

7. Gives Officers performing the service required by this Act, legal power to recover debts, &c., and administer, and prohibits the Administrator General from interfering except when required.

8. Provides for the order of distribution and administration of effects, and gives protection to person administering.

9. Dispenses with probate and exempts from stamp duty in specified cases.

10. Provides against necessity of letters of administration or probate being taken out in places out of Bombay to which effects or proceeds may be remitted.

11. Undisposed of residue, at end of 12 months to be remitted to Court of Directors, to be by them disposed of legally.

12. Limits operation of Act to Europeans.

13. Substitutes this Act for Rules heretofore made by the Government of Bombay, and legalizes all acts done under those Rules heretofore.

An Act for regulating the collection and distribution of the Effects of Officers, Seamen and others dying in the Marine Service of the East India Company called the Indian Navy.

Whereas it has been deemed expedient, in pursuance of the Provisions of an Act passed in a Session of Parliament holden in the 3rd and 4th years of the reign of Her Majesty Queen Victoria, to provide for the due collection, conversion into money, application, remittance and distribution of the effects of Officers, Engineers, Soldiers, Marines, Seamen and all others, belonging to the Marine Establishment of the East India Company called

the Indian Navy, who shall die in the Service of the said Company out of the United Kingdom, and for the discharge of their marine debts, it is enacted as follows:

I. When any Commissioned Officer belonging to the Indian Navy shall die in the Service of the East India Company out of the United Kingdom, whether his death shall take place on board Ship or on shore, the First Lieutenant of the Ship or Vessel to which such Officer belonged at the time of his death, or the Officer of such Ship or Vessel next in rank to the Commander thereof, or the Commander himself if there is no other Commissioned Officer on board, or any Officer he may appoint, shall immediately secure all the effects and equipage of the deceased on board the said Ship or Vessel, or on shore in quarters, and any other effects of the deceased within the territorial possessions of the East India Company which the Commander of such Ship or Vessel shall direct or authorize to be collected or secured, and shall with all convenient speed, and not later than one month after the death of the officer, with the assistance of two other Officers not under the rank of Purser or of Clerk in charge, such clerk having served not less than two years at sea, to be appointed by the Commanding Officer of the said Ship or Vessel, make an inventory thereof, and transmit that inventory, together with an account of the debts and credits to the Office of the Secretary to the Government of the Presidency of Bombay in the Marine Department, to the end that after payment of such Officer's marine or ship debts and the expenses of his interment where any shall have been incurred, the overplus, if any, shall be paid over by the said Secretary to the legal representatives of the Officer so deceased as hereinafter mentioned.

II. When any Non-commissioned Officer, Seaman or other person belonging to or serving in the Indian Navy shall die out of the United Kingdom in the Service of the East India Company, whether his death shall take place on board Ship or on shore, the First Lieutenant of the Ship or Vessel to which such Non-commissioned Officer, Seaman or other person belonged at the time of his death, or the Officer of such Ship or Vessel next in rank to the Commander thereof, or the Commander himself, if there be no other Commissioned Officer on board, or any Officer he may appoint, shall immediately secure all the effects and equi-

page of the deceased on board the said Ship or Vessel, or on shore in quarters, and any other effects of the deceased within the territorial possessions of the East India Company which the Commander of the Ship or Vessel shall direct or authorize to be collected or secured, and shall with all convenient speed, not later than one month after the death, in the presence of two other Officers of the rank in the preceding section mentioned, to be appointed by the Commander of the said Ship or Vessel, take an inventory thereof and of his credits, and shall take care that the same be applied in the first instance to the liquidation of his marine or ship debts, the remainder, if any, to be paid over to the Secretary to the Government of Bombay in the Marine Department in order that the same may be paid to the legal representatives of the deceased.

III. When any such Commissioned or Non-commissioned Officer or Seaman, or other person shall at the time of his death as aforesaid have been detached temporarily from his own Ship, and shall be serving with another Ship at a distance from his own, the Officers of the Ship in which the deceased was serving, as well as the Officers of the Ship to which the deceased belonged, at the time of his death, shall act in manner above directed in Sections I. and II. of this Act.

IV. If any Commissioned Officer, or Non-commissioned Officer, Seaman, or other person belonging to or serving in the Indian Navy shall die within the Presidency of Bombay, away from the Ship or Vessel to which he belongs, except when temporarily serving with another Ship, the Commander-in-Chief of the Indian Navy shall in such case appoint a Committee consisting of such three Officers as he may direct, to secure the effects of the deceased, or such of them as he may direct, and to apply the same and act in regard thereto as in the first and second Sections of this Act mentioned.

V The said First Lieutenant and other Officers to be selected and appointed for the purposes aforesaid, are hereby required to take upon them the said duties, and faithfully discharge the same, and in all respects to conform to the provisions and regulations hereinafter particularly specified.

VI. The effects and credits, within the territories under the Government of the East India Company, of Deserters from the

Indian Navy, shall be collected and applied in like manner in payment of their marine or ship debts, and the remainder, if any, shall be brought to the credit of the said Company.

VII. It shall be lawful for the Officers, or other persons so authorized as aforesaid, to secure and collect the effects or any part of the effects of any such deceased Officer, Seaman or other person so dying as aforesaid, to ask, demand and receive any such effects to which his authority shall extend, and to commence, prosecute and carry on any actions or suits for the recovery thereof, and to sell and dispose of or otherwise deal with the same without taking out any letters of administration, either with any will annexed or otherwise, in every respect as if such Officers or persons employed or authorized as aforesaid had been appointed executors, and had proved the will or had taken out administration of such effects; and no Administrator General, Registrar of any Court in the East Indies, or any person acting under the appointment or authority of such Court *ad colligenda* or otherwise, shall in any manner interpose in relation to any such effects unless required or authorized so to do by any such Officer or person so authorized as aforesaid.

VIII. All sums of money due by deceased Officers, Engineers, Marines, Seamen and other persons belonging to or serving in the Indian Navy, to the Indian Navy Fund, or in respect of mess-bills unadjusted since the last regular issue of pay-bills, or in respect of Military or Marine clothing appointments, or of equipments or other articles supplied from the Ship's stores or of servants' wages due, or of any Ship expenses during the current month, or of any sanatarium or hospital charges, or of any mess or marine or ship accounts, and all sums of money due to any Agent or Paymaster, or Purser, or any other Officer upon any such account, or on account of any advance made for any such purpose, and also any charges or expenses attending or relating to the illness or funeral of any such Officer, Seaman or other person, shall be deemed and taken to be marine, or ship debts, and shall be paid out of any arrears of pay or allowances, or out of any prize or bounty money, or the equipage, goods, chattels and effects of any Officer, Seaman or other person dying out of the United Kingdom while in the Service of the said Company, in preference to any other debts, claims or demands

whatsoever upon the estate and effects of such Officer, Seaman or other person, and if any doubt shall arise as to whether any claim or demand made in relation to any Officer, Seaman or other person is a marine or ship debt or not, or whether such charges or expenses attending or relating to the illness or funeral of such Officer, Seaman or other person are proper to be allowed, or whether any such marine or ship debts remain due, such question shall be decided and concluded by any order or certificate to be made by the Secretary to the Government, and all such payments shall be good and valid in law; and every person who shall make any such payment out of any such arrears of pay, effects or proceeds as aforesaid under the provisions of this Act, or in pursuance of any such order or certificate of such Marine Secretary, or into whose hands any such money shall come, shall be and is hereby idemnified for and in respect of such payments, and all other acts, matters and things done in pursuance of the provisions of this Act, or of the order or certificate of the said Secretary in relation to the distribution of such assets, any thing in any Act or Acts or law or laws to the contrary notwithstanding.

IX. All such marine or ship debts shall and may be paid without probate of any will or any letters of administration, and surplus only of such arrears of pay or allowances, prize or bounty money, equipage, goods and chattels, or the proceeds thereof, shall be deemed the personal Estate of the deceased for the payment of duty in respect of any probate or of any letters of administration or for the purpose of distribution as personal estate, and it shall be lawful for the said Secretary to order and direct the payment or distribution of any such surplus, in any case in which the same shall not exceed Five Hundred Company's rupees, without any probate or letters of administration, or payment of any duty of stamps or upon legacies or otherwise, and it shall also be lawful for any Paymaster or other person to issue any sum not exceeding the value of Five Hundred Company's rupees which may be due to any such deceased Officer, Seaman, or other person unto the widow or relative of any such Officer, Seaman or other person, or unto the representative or representatives of any such widow or relative, in India in like manner, without any probate or letters of administraion or pay-

ment of any duty of stamps, or upon legacies or otherwise, the same to be paid to the person who shall be notified by the said Secretary as aforesaid as being entitled thereto, and all such payments respectively shall be as valid and effectual to all intents and purposes, as if the same had been made by or to any executor or administrator or under the authority of any probate or letters of administration, anything in any Act or Acts or law or laws to the contrary notwithstanding.

X. Any such effects, or the proceeds or surplus of such effects of any Officer, Seaman or other person so dying, when remitted to any person under any order of the Secretary to the Government of Bombay, or to such Secretary, shall not by reason of coming to the hands of such person or Secretary be taken to be assets or effects in the place to which such proceeds or surplus may be remitted, so as to render it necessary that administration should be taken out in respect thereof, and it shall be lawful for the Secretary to the Government of Bombay to order that such effects or the proceeds or surplus of any such effects shall be remitted to any other place in India where the same can more conveniently be paid over to the person or persons entitled thereto, and the obedience to the orders of such Secretary in respect to the payment and disposal of any such effects, proceeds or surplus of such effects shall be a discharge from all actions, suits and demands in respect thereof, to any person to whose hands any such effects, proceeds or surplus shall have come, and which shall have been paid and disposed of under the order of such Secretary.

XI. The effects or the proceeds or surplus of effects of any such Officer, Seaman or other person dying as aforesaid, which shall remain after satisfying such marine or ship debts as aforesaid, shall with all convenient speed be transmitted to such Secretary as aforesaid, by the Officer or person employed or required to take care of, collect and receive the same, and such Secretary shall cause the same or the surplus thereof, remaining after satisfying such debts, and after and subject to such payment and application as hereinbefore authorized, to be paid to the executor or legal representative (if in India) of such Officer, Seaman or other person, or if such executor or legal representative shall not be in India, or shall not within twelve months from

the death of such Officer, Seaman or other person claim such surplus, then and in that case such Secretary shall remit the said surplus to the Court of Directors of the East India Company in London, to be by them paid to the executor or legal representative of such Officer, Seaman or other person so deceased, and such remittance at the end of twelve months as aforesaid, shall be a discharge to such Secretary from all actions, suits and demands in respect of such surplus; provided always that the Registrars of Her Majesty's several Supreme Courts in India shall not, nor shall the Administrator General of either of the said Presidencies, be required or entitled to take out letters of administration with the will annexed, or otherwise in respect of such surplus.

XII. The provisions of this Act are intended to apply only to European Officers and Seaman, and to other persons being European belonging to the Indian Navy, who may die as aforesaid.

XIII. And whereas the Governor in Council of Bombay made certain Rules, bearing date 27th July, 1844, to be observed on the decease of European Officers and European Seamen belonging to the Indian Naval Service, purporting to be Rules made in pursuance of the provisions of the said Act of the 3rd and 4th Victoria and the Articles of War thereunto annexed, and which Rules have been acted upon, it is hereby enacted that the said Rules shall no longer be acted upon, but that all acts heretofore done within any part of the territories under the Government of the East India Company, which were authorized by the said Rules, shall be deemed to be valid, and that no Act thereby authorized to be done shall be questioned in any Court of Justice in any part of the territories under the Government of the East India Company.

BENGAL.—REGULAR APPEALS.

Act No. XV. of 1853.

[*Passed on the 28th October,* 1853.

1. Repeals Act 4, 1850, and ss. 2, 3 and 4, of Act 30, 1850.

2. (1) Petition of regular appeal to be presented within 6 weeks after the decision; (2) but time for presenting petition may be extended by either Sudder Court or Court below.

3. When petition is presented to the Court below, notice of presentation to be given to respondent, and proclamation thereof to be made, and how to be made.

4. (1) Modifies R. 6, 1793, s. 11, as to the papers required to be transmitted to the Sudder, and specifies what papers shall be transmitted. (2) Party requiring copies of papers to be made for transmission, to give notice thereof in 14 days after proclamation. (3) Either party may give notice of papers required to be copied before the presentation of petition.

5. Petition of appeal when presented to the lower Court to be certified together with the record to Sudder and within what time.

6, 7. Grounds of appeal to be filed in Sudder within six weeks after arrival of record. (7) Grounds of objection if any on part of respondent to the decision of Court below to be filed within 4 weeks; (2) and within same period objections if any to the appeal; (3) or if respondent objects to any part of decision not involved in the appeal, he may present a distinct petition.

8. Time at which the record on appeal shall be deemed complete; cls. (2) (3) (4) regulate course of proceedings when the respondent appeals against part of decision not involved in original appeal.

9. Respondent to appeal in Sudder if he has presented petition of appeal in Court below.

10. Grounds of appellant and respondent to be stated concisely and on Stamped paper except as hereinafter provided; (2) Sudder Court may extend time for filing grounds.

11. Court of appeal may allow grounds to be amended, the parties shall be confined but not the Court to grounds stated.

12. Empowers the Court to call up the Case out of its order, for discussion of any grounds, without proceeding to final decision; (2) and if the appeal is on grounds of law, case may be called on at any time for decision; (3) and so if appeal is on grounds of fact and law, Court may call up the case for decision as to the law at any time.

13. In what manner parties shall proceed to obtain permission to appeal in *formâ pauperis*.

14. Stamped paper dispensed with in favor of pauper appellants and respondents.

15 Decision not to be reversed, &c., for errors, defects or irregularities if same are not productive of injury to either party or not contrary to Legislative Act.

An Act for the amendment of Procedure in cases of regular appeal to the Sudder Courts in the Presidency of Fort William in Bengal.

Whereas it is desirable to simplify and shorten the procedure in regular appeals to the Courts of Sudder Dewanny Adawlut, in the said Presidency, it is enacted as follows:

I. Act IV., 1850, and Sections II., III. and IV., Act XXX., 1850, are hereby repealed, except as to appeals presented before the passing of this Act.

II. *Clause 1st.*—Every petition of regular appeal in a case appealable to either of the said Sudder Courts shall be presented to the Court in which the decision was passed within six weeks from the day of the decision. Such petition of appeal shall, except in cases of petitions under Section XIII. of this Act, contain only notice that the party, being dissatisfied with the decision, is desirous of appealing from it.

Clause 2nd.—The Sudder Court may extend the time for presenting such petition of appeal to the lower Court, upon being satisfied that there is sufficient cause for such extension of time. The application for such extension of time may be made directly to the Sudder Court, or through the intervention of the lower Court, at the option of the applicant.

III. On presentation of a petition of regular appeal to the Court, in which the decision was passed, notice thereof to the respondent, as well as a proclamation to the same effect, shall immediately issue from that Court; and a copy of the proclamation shall be forthwith fixed up in some conspicuous part of the Court House of the said Court. If the notice cannot be personally served, the proclamation shall at once be fixed upon the door of the respondent's dwelling house, or in some conspicuous place, in the village or place where he usually resides; or in cases in which the respondent shall not have a fixed residence within the jurisdiction of the Company's Courts the proclamation may be fixed upon the door of his house of business or cutcherry, or the notice may be served on his known local agent. In case the proclamation cannot be fixed or the notice served in the manner above-mentioned, the proclamation shall be fixed up in such other place if any, as the said last-mentioned Court shall direct. The nazir shall make a return to the Court stating when and where the notice and proclamation have been served or fixed up. The return of the nazir shall be filed in Court and shall form part of the record of the case, and such return shall be published by fixing up the same in some conspicuous part of the Court House of the lower Court.

IV. *Clause 1st.*—The Rule in Section XI., Regulation VI., 1793, which directs copies of all original papers transmitted to the Sudder Court with the record of an appealed case to be made out and deposited in the Court in lieu of the originals, is

hereby modified, and it shall be necessary to copy, authenticate, and deposit, only the exhibits in the case, and also any other papers of importance, including the pleadings, or any parts of them which either of the parties shall require to be copied, authenticated and deposited in the lower Court previously to their being transmitted to the Sudder Court.

Clause 2nd.—If either of the parties require any papers to be copied, authenticated and deposited, such party shall either by himself or his pleader or authorized agent give notice in writing thereof to the lower Court, before the expiration of fourteen days from the time of the publication of the return of the nazir as aforesaid. Such notice shall specify the papers which the party requires to be copied, authenticated, and deposited.

Clause 3rd.—Either party may by himself or his pleader or authorized agent before the presentation of an appeal give notice in writing to the lower Court specifying any papers or documents which he requires to be copied, authenticated, and deposited, in the event of an appeal being preferred.

V. The petition of appeal together with the record of the lower Court shall be certified to the Sudder Court as soon as conveniently may be after the presentation of the petition of appeal. Provided that the same shall not be certified within the time allowed to the parties for specifying the papers which they desire to be copied, authenticated, and deposited.

VI. On arrival of the appeal record at the Sudder Court, notice shall be affixed in the Court House of the said Court, requiring the appellant to file, within six weeks from the date thereof, his grounds of objection to the decision of the Court below. Within the said space of six weeks the appellant shall file in the said Sudder Court his grounds of objection to the decision.

VII. *Clause 1st.*—On the filing of the grounds of objection by the appellant, notice shall be affixed in the Court House of the Sudder Court requiring the respondent to file his grounds of objection, if any, to the appeal or to the decision of the lower Court within four weeks from the date of such notice.

Clause 2nd.—Within the said space of four weeks, the respondent shall file any grounds of objection which he has to the appeal, or which relate to such parts of the decision as are involved in the appeal.

Clause 3rd.—If the respondent shall desire to object to any part of the decision of the lower Court not involved in the appeal, he may present a separate petition of appeal to the Sudder Court within the said space of four weeks, or within such further time as the said Sudder Court shall allow for that purpose.

Clause 4th.—The respondent shall in such case file with his petition of appeal his grounds of objection to that part of the decision to which his appeal relates, otherwise his appeal shall not be received.

VIII. *Clause 1st.*—At the expiration of the time allowed to the respondent for filing his grounds of objection and for filing a separate petition of appeal in the Sudder Court, the record shall be deemed complete and the case ready to be called up for decision on any day which the Sudder Court may notify, unless the respondent within such time file a separate petition of appeal in the Sudder Court.

Clause 2nd.—If the respondent file a separate petition of appeal in the Sudder Court, notice shall be fixed up in the Court House of the Sudder Court to the effect that the respondent has filed such separate appeal, and the notice shall require the appellant to file any grounds of objection which he may have thereto, within the space of four weeks from the date of the notice.

Clause 3rd.—Within such space of four weeks the appellant may file any grounds of objection which he has to such appeal, or which relate to that part of the decision which is involved in the respondent's appeal. At the expiration of the time allowed for filing such grounds of objection by the appellant, the record shall be deemed complete, and the case ready to be called up for decision on any day which the Sudder Court shall notify for that purpose.

Clause 4th.—If the appeal of either party be dismissed or withdrawn, the appeal of the other may be heard alone; otherwise the two appeals and the proceedings thereon shall form one record, unless the Sudder Court shall otherwise order.

IX. The respondent shall not be allowed to present a separate petition of appeal in the Sudder Court, if he shall previously have presented a petition of appeal to the lower Court.

X. *Clause 1st.*—All grounds of objection which shall be filed by either the appellant or the respondent shall be stated distinctly

and concisely without any argument or narrative of facts, and shall be numbered consecutively, and except in the cases hereinafter-mentioned, shall be on paper bearing the stamp duty prescribed by Article 9, Schedule B, Regulation X., 1829.

Clause 2nd.—The Sudder Court may extend the time for filing grounds of objection either by an appellant or respondent upon special application for that purpose, and upon sufficient reasons being shown to the satisfaction of the said Court for such extension of time. In such case the objections may be filed within such extended time.

XI. Either party may, by leave of the Sudder Court or any judge thereof, at any time before the hearing, amend his grounds of objection or add grounds of objection to those filed, upon such terms and conditions, and within such time as the said Court or Judge may order. The said Court may also, upon the hearing of any appeal, allow either party to amend his grounds of objection, or to add further grounds, or to urge and be heard by himself or his pleader in support of any objection not included in his grounds of objection, upon such terms and conditions as to postponement of the cause, and as to the payment of costs or otherwise, as the Court shall think just, to prevent the opposite party or his pleader from being taken by surprise or otherwise. Without such leave of the Court, neither party shall be allowed to urge or be heard in support of any objection not included in his grounds of objection filed. But the Court shall not be confined to such grounds of objection on deciding the cause.

XII. *Clause 1st.*—The Sudder Court may call up for hearing and decision on any day the Court shall notify, and without regard to the place in which the case stands in the general list of appeals, any grounds of objection filed by the respondent or the appellant to the appeal of the opposite party, and the Sudder Court may hear and decide upon such grounds of objection before calling the case up for decision upon the grounds of objection to the decision of the lower Court.

Clause 2nd.—If the grounds of objection filed by the appellant, and respondent, shall be upon points of law only, and shall not raise any question of fact, the Sudder Court may order the case to be called up for hearing and decision on any day which

the said Court shall notify, without regard to the place in which it stands in the general list of appeals pending in the said Court.

Clause 3rd.—If the grounds of objection filed shall raise questions of law and fact, and it shall appear to the Sudder Court that the decision of the law may render it unnecessary to determine any question of fact so raised, the Court may order the case to be called up for decision upon the law alone, in the first instance, in the manner pointed out in the last preceding Section, and if their decision of the case upon the law shall render it unnecessary to determine any question of fact, the said Court shall pass a final decision in the case, otherwise the Court shall determine the law only, and the case shall be afterwards set down in the list of regular appeals for hearing upon the question or questions of fact, and shall be determined in the same manner as any other regular appeal.

XIII. If any party to a regular suit be desirous of being admitted to appeal *in formâ pauperis* to the Sudder Court, the following procedure shall be adopted:—.

Clause 1st.—The appellant shall present his petition to the lower court according to the rules prescribed by Section II. of this Act. Provided that a petition to appeal *in formâ pauperis* against any decision passed before this Act shall come into operation, may be presented within three months from the day of the decision.

Clause 2nd.—Petitions of appeal by parties desirous to appeal *in formâ pauperis* shall contain a statement to that effect, and also a Schedule of the whole real and personal property belonging to the petitioner, and the estimated value of such property, and shall be written on paper bearing the stamp duty of two Rupees per sheet.

Clause 3rd.—Upon the presentation of such petition, the notice to the respondent and the proclamation shall state that the appellant desires to appeal *in formâ pauperis.*

Clause 4th.—On arrival of the appeal record at the Sudder Court, the same procedure shall be adopted in that Court as in other cases of regular appeal, except that after the filing of the grounds of objection by the appellant, and before notice shall be given requiring the respondent to file his grounds of objection, the Sudder Court shall determine, according to the rules now

applicable to the determination of such cases, whether or not the appellant shall be allowed to appeal *in formâ pauperis.*

Clause 5th.—If the Sudder Court allow the petitioner to appeal *in formâ pauperis,* notice shall be given to the respondent to file his grounds of objection in the manner provided by Section VII. of this Act, and the same procedure shall be adopted subsequently thereto as in other cases of regular appeal under this Act. The rules and conditions now applicable to persons admitted by the Sudder Court to appeal *in formâ pauperis* shall continue in force except where the same are inconsistent with any of the provisions of this Act.

Clause 6th.—If the Sudder Court refuse to allow the petitioner to appeal *in formâ pauperis,* the said Court may make an order to the effect that the appellant upon filing a petition of appeal in that Court, upon paper stamped with the stamp duty required by Article 8, Schedule B, Regulation X., 1829, and upon re-filing his grounds of objection on paper stamped with the stamp duty required by Article 9 of same Schedule, may proceed with the appeal according to the rules prescribed by this Act in the case of persons not appealing as paupers.

Clause 7th.—Upon such order being made, the appellant shall file his petition and re-file his objections upon paper stamped with the stamp duty required by Clause 5 of this Section, within two weeks from the date of such order, or within such further time as the said Court may allow for that purpose, otherwise the appeal shall stand dismissed.

Clause 8th.—Upon the re-filing of the grounds of objection according to the provisions of the last preceding Clause, notice of the order and of the re-filing of such objections shall be given to the respondent in the manner prescribed by Section VII. of this Act, and the respondent shall be required to file his grounds of objection, if any, according to the provisions of that Section. The procedure subsequent to such notice shall be according to the general provisions of this Act.

Clause 9th.—If an appellant shall petition to appeal *in formâ pauperis,* his grounds of objection may be written on plain paper.

XIV. If an appellant shall be admitted to appeal or a respondent to defend *in formâ pauperis,* all grounds of objection subsequently filed by either party may be written on plain paper.

XV. No decision shall be reversed or altered, nor shall any case be remanded upon appeal to the Sudder Court on account of any error, defect or irregularity not productive of injury to either party, nor opposed to any express enactment contained in the general Regulations or Acts of Government.

XVI. This Act extends only to regular appeals which shall be presented after the passing of this Act in Civil cases appealable to either of the Sudder Courts in the Presidency of Fort William in Bengal.

Repealed by Act X., 1861, except as to Territories to which Act VIII., 1859, has not been extended. This Act is retained in consequence of this exception. There may be non-regulation parts to which Act VIII., 1859, has not been extended, but which are subordinate to the Sudder Courts.

SPECIAL APPEALS.

Act No. XVI. of 1853.

[*Passed on the 18th November*, 1853.

1. Repeals Act 3, 1843, except as to cases petitioned on before.

2. Cases petitioned on, but not under order, shall be within this Act.

3. Appeals admitted before this Act, but not determined, how to be proceeded with.

4. Specifies grounds on which a special appeal shall lie, viz., (1) a failure to decide all the material points in the case or a decision contrary to law; (2) misconstruction of any document; (3) ambiguity in the decision itself; (4) substantial error or defect in procedure, &c., if apparent on the record; but appeal not to lie on matter of fact.

5. Cl. 1.—Petition may be presented either in Sudder Court or Court below for transmission to S. C., but within 3 months, except on just cause for giving longer.

Cl. 2.—By what documents the petition must be accompanied,

Cl. 3.—Extension of time for appealing may be petitioned for.

6. Grounds of appeal to be set forth in petition and numbered.

7. Cl 1.—Lists of petitions to be made out by S. C.; what the lists shall contain, and publication how to be made.

Cl. 2.—Gives the respondent right to state grounds of objection, by way of cross appeal.

Cl. 3.—Regulates mode of hearing petition and appeal.

8. Cl. 1.—Empowers one or more Sudder Judges to hear petition; and to permit amendment of petition; and to admit or reject petition, and otherwise to order as specified.

Cl. 2.—Order for admitting special appeal to specify grounds of admission.

Cl. 3.—When order for admitting appeal is passed, appeal to be put on file for hearing.

Cl. 4.—Order of one Judge for rejecting petition not to be final, but order of a second Judge for remand, rejection or admission, to be final.

Cl. 5.—Order for remand not to be made without notice to opposite party.

Cl. 6.—Judge ordering special appeal made may state grounds on which he grants it, &c.

Cl. 7.—On hearing petition for appeal the case of appeal may be decided at same time, if requisite number of Judges for deciding an appeal are present.

9. Cl. 1.—Order for rejecting special appeal must state grounds of rejection. Such order may be reviewed, and by whom.

Cl. 2.—If on review of order for rejection of appeal, Judges are divided, petition to be admitted.

Cl. 3.—Petition for review to be presented on stamp of 2 Rs. per sheet.

10. Cl. 1.—Appeals to be heard by three or more Judges.

Cl. 2.—Court may allow grounds of petitions to be amended. Court itself not confined to objections made by party.

11. Saves all laws not repealed impliedly or expressly by this Act.

An Act for Amending the Law of Special Appeals.

I. Act No. III. of 1843, is hereby repealed, except as to cases in which a petition for appeal shall have been presented before this Act shall come into operation.

II. If any application for a special appeal shall have been presented, and no order shall have been passed thereon before this Act shall come into operation, such application shall be heard and determined in the same manner as an appeal presented under this Act; and all the provisions of this Act shall extend to such application and to the hearing thereof, and to all subsequent proceedings thereon; and also to the hearing and determination of the appeal if the same shall be admitted.

III. If any such application shall have been presented, and the appeal admitted before the Act shall come into operation, the appeal shall be heard and determined, in the same manner as if this Act had not been passed, except that the Sudder Courts shall determine the appeal without reference to the points certified, and may call for or refer to any part of the proceedings which may be necessary, and that the provisions of Section X., of this Act shall extend to such appeals.

IV. A special appeal shall lie to the Sudder Courts in the several Presidencies of Fort William in Bengal, Fort St. George and Bombay, from any decision passed on regular appeal in any of the Civil Courts subordinate to the said Sudder Courts respectively, on any of the following grounds:—

1st. On the ground that the decision hath failed to determine all material points in difference in the cause, or determined the same or any of them, contrary to law or usage having the force of law.

2nd. On the ground of a misconstruction of any document.

3rd. On the ground of any ambiguity in the decision affecting the merits.

4th. On the ground of any substantial error or defect in procedure, or in the investigation of the case, provided such error or defect be apparent on the record, and shall have produced, or be likely to have produced any error or defect in the decision of the case upon the merits. Provided always that no such special appeal shall lie, nor shall any such decision be reversed, altered, or remanded by any of the said Sudder Courts, upon the ground that the decision of any question of fact is contrary to or not warranted by the evidence duly taken in the cause, or any probability deduced from the record.

V. *Clause* 1.—A petition of special appeal may be presented in the Sudder Court or it may be presented in the Court in which the decision objected to was passed for transmission to the Sudder Court. In either case the petition must be presented within three months from the date of the decision appealed against, unless the petitioner can show just and reasonable cause to the satisfaction of the Sudder Court for not having presented it within such limited period.

Clause 2.—Every such petition of special appeal shall be accompanied by authenticated copies of the decree objected to and of the decree of the Court of original jurisdiction. If the appeal be presented in the Court in which the decree objected to was passed, such last-mentioned Court shall forthwith forward the same to the Sudder Court with an endorsement thereon of the date on which it was presented, together with the copies of the decrees of the lower Courts by which it was accompanied.

Clause 3.—An application for an extension of the time for presenting a petition of special appeal may be made directly to the Sudder Court or through the intervention of the lower Court at the option of the applicant.

VI. Every petition for a special appeal shall set forth concisely and under distinct heads the grounds of objection to the decision appealed without any argument or narrative, and such grounds shall be numbered consecutively.

VII. *Clause* 1.—The Sudder Courts shall cause lists of the petitions, which shall be presented for the admission of special appeals to be prepared weekly, and to be affixed in the Court houses of the said Sudder Courts respectively. The said lists shall set forth the dates on which such petitions are likely to be brought on for hearing, and the said Sudder Courts shall cause extracts from the said lists to be transmitted to the Courts in which the decisions on regular appeal were passed; such extracts shall be affixed in some conspicuous place in the last-mentioned Courts, and extracts therefrom shall be submitted by such Courts to the Courts in which the original suits were instituted, and such last-mentioned extract shall be affixed in some conspicuous place in the said last-mentioned Courts. The time to be fixed by the Sudder Court for the hearing of any petition shall not be less than six weeks from the date of dispatch of the extracts referring to the same from the Sudder Court. The date of the despatch of each extract shall be notified thereon.

Clause 2.—At any time within the period of one month from the date of the dispatch of the extract referring to the appeal or within such further time as the Sudder Court shall, for just and reasonable cause, allow for that purpose, the respondent may present a separate petition of special appeal in the Sudder Court upon any of the grounds upon which a special appeal will lie against any part of the decision of the lower Court not involved in the appeal of the opposite party, provided the respondent shall not previously have presented a special appeal in the cause. Such petition however shall not be inserted in any list to be prepared in pursuance of Clause I., Sec. VII., of this Act.

Clause 3.—If the petition of appeal or the appeal of either party be dismissed, withdrawn, or rejected, the application for

appeal or the appeal, as the case may be, of the other party, shall be heard alone, according to the provisions of this Act; otherwise, all applications for special appeal and all admitted special appeals relating to the same decision, shall respectively be heard together unless the Sudder Court shall otherwise order in any case.

VIII. *Clause* 1.—It shall be lawful for one or more of the Judges of the said Sudder Courts, respectively, to hear applications for special appeals, duly presented as aforesaid, in the presence of the appellant, or his pleader and also of the respondent or his pleader or such of them as shall attend, and it shall be competent for such Judge or Judges to call for and peruse any document forming a part of the record of the cause; or to order the amendment of the petition of special appeal forthwith, or within such time as he or they may order, not exceeding one month from the date of such order; or to make an order of reference to the Court which pronounced the decree appealed from or further information or explanation; or to pass an order for admitting the appeal for hearing or for rejecting the same; or, if it shall appear that the facts have not been sufficiently recorded, or that the case is otherwise so insufficient that the Sudder Court could not, if the appeal were admitted, pass a final decree thereon, but for no other cause, to issue an injunction, setting forth the errors, irregularities, or other defects in the decision appealed against, and remanding the same to the Court by which the same shall have been passed, in order that such decision may be reviewed by the last-mentioned Court, and that such order or decree may be passed thereon as shall be conformable to law. Provided always that no such remand shall be ordered as aforesaid, except upon grounds whereon a special appeal will lie under this Act. If any such application shall be heard by only two Judges, and they differ in opinion as to admitting the appeal for hearing, it shall be admitted.

Clause 2.—An order for admitting a special appeal for hearing shall specify, for the information of the Court, the grounds upon which it was admitted. But neither the Court nor the parties shall be confined to those grounds upon the hearing.

Clause 3.—If an order be passed for admitting the special appeal for hearing the case shall be brought on to the file of the Court to be heard and determined in due course.

Clause 4.—If an order for rejecting a special appeal or for remanding a case be made by one Judge only, such order shall not be final, but it shall be laid before another Judge of the same Court who shall hear the application for the appeal in the presence of the appellant or his Pleader and also of the respondent or his Pleader or such of them as shall attend. If the second Judge be of opinion that the appeal ought to be rejected or the case remanded he shall pass a final order to that effect; if he be of opinion that the appeal ought to be admitted he shall pass an order for admitting the same, and the appeal shall thereupon be admitted, heard and determined in due course, in the same manner as if it had been admitted in the first instance.

Clause 5.—A final order for remanding a case shall not be made without notice to the respondent to enable him to appear and be heard.

Clause 6.—Any Judge by whom an order for admitting a special appeal shall be made may certify that in his judgment the decision of the lower Court is manifestly erroneous upon any of the grounds upon which a special appeal will lie, and thereupon the appeal may be set down for hearing in a list to be called the list of certified special appeals. All cases entered in such list may be called up in due course for hearing and decision according to the provisions of this Act without regard to the general list of special appeals pending in the Sudder Court.

Clause 7.—If an application for a special appeal be heard by a number of Judges sufficient according to the provisions of this Act to hear and determine the appeal and it shall appear that the decision is manifestly erroneous, or that the case ought to be remanded, the appeal may be heard and determined forthwith, if the respondent or respondents be present or represented by a Pleader or Pleaders, otherwise the Court may order the case to be entered in the list of certified appeals, and the same shall be entered accordingly.

IX. *Clause* 1.—Every order for rejecting a special appeal shall state the reason for disallowing each of the grounds set forth in the petition, and every such order of rejection may be once reviewed by the Judge or Judges by whom the same was passed or by any Judge or Judges sitting for or instead of him

or them, if they or he shall think fit to review the same. Provided that no such review shall be allowed unless application for the same be made within three months from the date of such order.

Clause 2.—If any such order be rescinded or if the Judges who shall review the same shall be equally divided in opinion the appeal shall be admitted and the case brought on to the file of the Court and heard and determined in due course.

Clause 3.—A petition for the review of such order shall be written on paper stamped with a Government stamp of the value of two Rupees a sheet.

X. *Clause* 1.—When any special appeal shall be admitted, the same shall be heard and determined by three or more of the Judges of the Sudder Court, and such hearing and determination shall be upon all the grounds whereon a special appeal will lie under this Act.

Clause 2.—The Sudder Court may at any time before or at the time of the hearing of any special appeal or any application for a special appeal allow either party to amend the grounds of objection set forth in his petition, or to add further grounds of objection thereto; or to urge and be heard by himself or his pleader in support of any objection not included in his petition, upon such terms and conditions as to postponement of the hearing, and as to the payment of costs or otherwise as the Court shall think just, to prevent the opposite party or his pleader from being taken by surprise or otherwise. Without such leave of the Court, neither party shall be allowed to urge or be heard in support of any objection not set forth in his petition. But upon hearing the application or determining the appeal the Sudder Court shall not be confined to the grounds of objection set forth in the Petition.

XI. The existing Laws and Regulations of the Presidencies of Bengal, Madras and Bombay, relating to special appeals, shall continue in force, in the said Presidencies respectively, so far as they are not inconsistent with, or repealed by, this Act.

Repealed by Act X., 1861, except as to Territories to which Act VIII., 1859, has not been extended. Retained for same reason as Act XV., 1853. See note to that Act.

JAGHEER OF MAHARAJAH IMRIT RAO.

ACT No. XVII. OF 1853.

[*Passed on the 18th November*, 1853.

Recites death of M. Imrit Rao and expediency of bringing the tract of Country granted to him under the Regulations.

1. Repeals Bengal Reg. 7, 1816.

2, 3, 4, 5. Makes the district recited subject to all laws and regulations; (3) and all cases to be tried according to them, saving the discretion of the Court as to any special equity; (4) but final decisions before 6th July, 1853, not to be disturbed, &c., (5) and Act not to extend to offences within ss 3 and 4 of B. Reg. 7, 1816.

An Act to repeal Regulation VII. of 1816, and to declare the law which is to be in force in the tract of land granted to Maharajah Imrit Rao.

Whereas a tract of land situated near the town of Teroha, in the district of Banda, was granted as an independent Jagheer by the British Government to the Maharajah Imrit Rao, and whereas by Regulation VII. of 1816, of the Bengal Code, it was enacted that from and after the date of that Regulation, the jurisdiction of the Courts of Civil and Criminal judicature and the operation of the general Regulations should not extend to the tract of land aforesaid, and whereas Maharajah Benaik Rao, son of the said Maharajah Imrit Rao, died on the 6th day of July, 1853, and it is now expedient to repeal the above-mentioned Regulation, it is enacted as follows:

I. Regulation VII. of 1816, of the Bengal Code, is hereby repealed.

II. The said tract of land, being part of the district of Banda, all Laws and Regulations now in force within that district shall be in force in the said tract of land.

III. All cases, Civil or Criminal, in which the cause of action arose, or the offence was committed, within the said tract of land, before the passing of this Act, may be tried and determined by the Courts of the said district of Banda, and the general Laws and Regulations now in force there may be applied and administered by the said Courts in the trial and determination of such cases; but if in any Civil case it shall appear that the application of the said Laws and Regulations would operate unjustly if applied to the trial and determination thereof, it shall be lawful

for the said Courts to try and determine the same according to equity and good conscience.

IV. Provided always that no Court shall try or determine any case, Civil or Criminal, with respect to which a final decision was pronounced previously to the said 6th day of July, 1853, by any Court or person within the said tract of land, having at the time of the decision lawful power and authority to pronounce it; and that with the exception of cases within the provisions of Section IV. of the said Regulation VII. of 1816, no act committed within the said tract of land prior to the 31st day of August, 1853, shall be deemed an offence punishable under the provisions hereof, if at the time of the commission of such act the same was not contrary to the laws then in force in the said tract of land.

V. Nothing in this Act shall extend to any crime or offence within the provisions of Section III. or IV. of the said Regulation committed before the passing of this Act, but every such crime or offence shall be dealt with or punished as if this Act had not been passed.

The Jagheer to which this Act applies was forfeited to the British Government through the Mutiny of 1857.

MILITARY CANTONMENTS.—SALES OF SPIRITS.

ACT No. XVIII. OF 1853.

[*Passed on the 2nd December*, 1853.

1. Makes liable to fine or imprisonment any person not subject to Military Law who supplies spirituous liquor to or for the use of European Soldiers, &c.

2. Makes person convicted once liable to an increased fine or imprisonment for second offence and all liquor, &c., within cantonment belonging to him may be confiscated.

3, 4. Any Camp follower, &c., having, &c, within cantonment, &c., liquor exceeding one seer without permit, to be liable to fine for first offence and fine or imprisonment for second; but (4) this provision not to apply to liquor brought into cantonment for use of non-commissioned officer.

5. Authorises the arrest by police officer without warrant of any person liable to conviction and also the seizure of the prohibited liquor; but both to be taken before Magistrate.

6, 7. Makes liable to fine person obstructing police officer, also police officer if he does not take person and thing seized before Magistrate, &c., also (7) if arrest and seizure be without probable cause, if without warrant.

8. No police officer competent to act without authority in writing of commanding officer, &c.

9, 10. Magistrate may adjudge vessel, liquor, &c., to be forfeited and may award fine to the informer; (10) and may detain vessel, &c., till case be decided.

11. Takes away right of appeal.

12. Makes British subjects amenable to Magistrate.

13. Gives superintendent of Bazaars in Bombay power to enforce provisions of this Act.

14. Excludes from operation of Act articles supplied for medicinal purposes.

15, 16. Interpretation clause. (16) Act to come into operation from 1st Jan., 1854 and defines manner in which it shall be brought into operation.

An Act for Regulating the Sale of Spirituous Liquors, &c., in Cantonments.

Whereas it is expedient to regulate the sale of spirituous liquors, wine and intoxicating drugs within Military Cantonments, it is enacted as follows:

I. If within any Military Cantonment or within any limits around the same to which the Provisions of this Act shall be extended by an order of Government to be publicly notified, any person not amenable to Articles of War or any Sutler or Camp follower shall knowingly barter, sell, or supply, or offer, or attempt to barter, sell or supply any spirituous liquor, wine or intoxicating drug, to, or for the use of any European Soldier, or to, or for the use of any European or Eurasian being a Camp follower or a Soldier's wife, without a written license from the Officer Commanding at the Station, or from some person having sufficient authority from the Commanding Officer to grant such license, the person so bartering, selling, or supplying or offering or attempting to barter, sell, or supply such spirituous liquor, wine, or intoxicating drug as aforesaid, shall be liable, on conviction before a Magistrate, to a fine not exceeding Fifty Rupees, or, in the discretion of the Magistrate, to imprisonment, with or without hard labour, for any period not exceeding one calendar month.

II. If any person convicted of an offence under Section I. of this Act, shall be convicted under that Section of an offence subsequently committed, he shall be liable to a fine not exceeding

One Hundred Rupees, or to imprisonment, with or without hard labour, for any period not exceeding three calendar months; and in such case any spirituous liquor, wine, or intoxicating drug, within such Cantonment, or limits, which at the time of the commission of such subsequent offence shall belong to, or be in the possession of such person, shall, without further proof be deemed to be in the possession of such person, for the purpose of being supplied to European Soldiers contrary to the provisions of this Act, and it shall be liable to be seized and confiscated.

III. If any Camp follower or Military pensioner or the wife or the widow of any Soldier, Camp follower or Military pensioner shall within such Cantonment or limits remove, convey, or have in his or her possession any quantity of spirituous liquor, or wine, exceeding one seer or quart, without a permit, to be signed by the Officer in Command, or such other Officer as may be appointed by him to grant permits under this Act; every such person shall be liable upon conviction to a fine not exceeding Fifty Rupees, and for any subsequent offence to a fine not exceeding One Hundred Rupees, or to imprisonment, with or without hard labour, for any term not exceeding three calendar months.

IV. Section III. of this Act shall not apply to any liquor brought into a Cantonment for the private use of any Commissioned Officer.

V. If any person, subject to the provisions of this Act, shall be found committing any offence contrary thereto, any Police Officer, authorized under this Act, may immediately, without warrant, arrest such person, and also seize any spirituous liquor, wine or intoxicating drug, together with any vessel containing the same, and any thing used for the purpose of removing, conveying or concealing the same, which may be found in his possession, and shall thereupon, without delay, take such person, together with the things so seized, before a Magistrate or other Officer having jurisdiction to punish the offender.

VI. Any person who shall obstruct any Police Officer in making any arrest or seizure under this Act, and any Police Officer who shall not, without unreasonable delay, take the person or thing so arrested or seized before a Magistrate or

other Officer having jurisdiction to punish the offence, shall be liable, on conviction before a Magistrate, to a fine not exceeding One hundred Rupees.

VII. Any Police Officer who, under colour of this Act, shall, without probable cause, make any arrest or seizure without a warrant, shall, on conviction before a Magistrate, be liable to a fine not exceeding One hundred Rupees, which fine or any part of it may be ordered by the Magistrate to be paid to the person aggrieved.

VIII. No Police Officer shall be competent to act under the provisions of Section V. of this Act, unless he shall have a general or special authority so to do, granted to him in writing by the Commanding Officer or other Officer empowered by him to grant the same, or by the Officer in the immediate charge of the Police.

IX. In case of a conviction for any offence under this Act, the convicting Magistrate may adjudge any liquor, wine, or intoxicating drug, in respect of which the party shall be convicted, and any other spirituous liquor, wine, or intoxicating drug, which shall be found in his possesion at the time of committing the offence, and any vessel containing the same, together with any thing used for the purpose of conveying, removing, or concealing the same, or any part thereof, to be confiscated; and such Magistrate may order the whole, or any part, or parts of any fine imposed under this Act, to be paid, as soon as the same shall be realized, to the person upon whose information such conviction shall take place, or to the officer who shall have apprehended the offender, or seized any of the goods adjudged to be confiscated.

X. A Magistrate may order any thing seized under the provisions of this Act, in respect of which any person shall be charged with an offence, to be detained until the person in whose possession the same shall have been seized shall be convicted, or acquitted of the offence charged. If the person shall be acquitted, the things so seized shall be restored; if he shall be convicted, such of the things only, if any, as shall not be adjudged by a Magistrate to be confiscated, shall be restored; the remainder shall be dealt with as confiscated.

XI. No appeal shall lie from any order or conviction under the provisions of this Act.

XII. European British subjects shall be amenable to the jurisdiction of a Magistrate for any offence against the provisions of this Act.

XIII. Within the Presidency of Bombay the Superintendent of Bazaars may punish any person for any offence against the provisions of this Act in the same manner and to the same extent as he is now authorised to do in any of the cases mentioned in Clause 3, Section XXVI., Regulation XXII. of 1827, of the Bombay Code.

XIV. This Act shall not apply to the sale, or supply of any article for medicinal purposes, by recognized medical practitioners chemists, or druggists.

XV. In the construction of this Act the word "Cantonment" shall include a "Fortress, or Garrison" or Military bazaar station; the word "Soldier" shall include any Non-Commissioned Officer; the word "Magistrate" shall include a Joint Magistrate, or any person lawfully exercising the powers of a Magistrate, or a Justice of the Peace, the words "Spirituous liquor" shall include toddy in a state of fermentation, or after it has been fermented. Words in the singular number shall include the plural, and words denoting the masculine gender shall include the feminine.

XVI. This Act shall not come into operation before the 1st day of January, 1854, and shall not take effect within any limits around a Cantonment which shall be specified in any order of Government before the expiration of one month from the date of the notification of such order, and any order for extending the provisions of this Act to any limits around a Cantonment may from time to time be varied, altered or suspended by Government.

Repealed so far as relates to the Bengal Presidency by Act XXII., 1864.

BENGAL CIVIL COURTS.—EVIDENCE.

Act No. XIX. of 1853.

[*Passed on the 2nd December*, 1853.

1. Repeals Beng. Reg. 23, 1814, ss. 33 and 73, so far as they are inconsistent with this Act; Beng. Reg. 24, 1814, s. 11, partially; and Act 6, 1843, partially.

2. Makes parties to suits competent as witnesses, but to be examined in open Court except in specified cases.

3. Abolishes incompetency on ground of interest and relationship.

4. Husband and wife may be examined for or against one another, but in open Court, &c., except as to communications between one another, which are to be deemed privileged.

5. Party to suit compellable to give evidence and produce documents, &c.

6. Day to be appointed by the Court for the examination of witnesses, &c.

7. Lists of witnesses intended to be examined to be filed

8. Order for attendance of party as witness to be made on sufficient cause shown.

9, 10, Cl. 1, 2. 11. Day to be fixed for showing cause why party should be summoned as witness. (10 Cl. 1) Cause may be shown by declaration in writing; (10 Cl. 2) for which, if false, party making it may be indicted for perjury: (11) if no sufficient cause shown compulsory summons to issue.

12. Persons may be summoned to produce documents, but expenses of witness to be deposited in Court and tendered to witness, and on attendance of witness Court may order further sum to be paid.

13. Describes what the summons shall contain.

14, 15. Summons to be served personally, &c., (15) in sufficient time before.

16, 17, 18. Person summoned only to produce a document may depute production; and (17) if producing it needs not be sworn: but (18) if summoned to be examined must personally attend.

19, 20, Witness not a party to suit not bound to produce his own title deeds; nor (20) any person to produce documents relating to affairs of State, &c.

21, 22. Parties to suit not bound to produce documents not material or relevant, nor documents in his possession as professional adviser, &c.; but documents thus exempted from production to the parties, must if required be produced to the Court confidentially; and the Court to decide on the use to be made of the documents.

23. Makes communications between clients and their professional agents privileged; but privilege is waived by party examining as witness his own professional agent.

24. Non-compliance with summons to give evidence and other breach of duty of person summoned, to be punishable and how.

25. Persons in Court may be required to give evidence as if they were summoned.

26, 27. Person absconding, &c., to avoid service of summons, &c., to be liable for damages; and (27) his property liable to be attached and sold; but order for attachment, &c., may be appealed against.

28. Cl. 1, 2. 29. Regulates the matter of costs of the attachment, &c., and empowers the Court to fine, &c., at its discretion; but (28 Cl. 2) the Court's order may be appealed against; and (29) all orders for fining or imprisoning to be appealable.

30. Defines the authority of the Court to postpone trials in case of non-attendance of witnesses.

31. Evidence to be taken *vivâ voce* in Court in writing by the Judge or by his direction and signed by witness; also prescribes the course of proceeding in case question is objected to.

32. Prescribes the manner in which the evidence of females may be obtained.

33. Empowers the Court to postpone trial on account of absence of a material witness, &c., and prescribes mode of proceeding in such case.

34. Directs trial to take place in ordinary course, if not specially postponed and pleaders to be heard orally on both sides.

35. Empowers the Court for its own satisfaction to require further evidence not produced by the parties and directs in what way such evidence shall be obtained and taken.

36. Court may make order for witnesses to be out of Court during trial.

37. Parties if examined as witnesses to be punishable for false evidence like other witnesses.

38. Interprets parts of Act and provides against depositions by parties being used in their own favor except in certain cases.

39. No appeal to lie against order for summons of witness, &c.

40. Documents referred in pleading to be filed with the pleading if in possession of party.

41. Interpretation clause.

42, 43, 44. Limits Act to Bengal and E. I. Co.'s Courts: (43) ss. 9, 10 and 11 of this Act not extended to Chittagong: and (44) to come into operation on the 1st January, 1854.

An Act to amend the Law of Evidence in the Civil Courts of the East India Company in the Bengal Presidency.

Whereas the law of evidence administered by the Civil Courts of the Presidency of Fort William in Bengal and the rules for the attendance and examination of witnesses and the production of documents in such Courts, require amendment, it is enacted as follows:

I. Sections XXXIII. and LXXIII. Regulation XXIII., 1814, of the Bengal Code, so far as they are inconsistent with the provisions of this Act, Section XI., Regulation XXIV., 1814, of the same Code, except so far as it relates to the signing and issuing of any process of Court to which the signature of the judge may not be specially required, and Section I., Act VI., 1843, so far as it authorizes the examination of witnesses according to the rules established by section XI., Regulation XXIV., 1814, aforesaid, are hereby repealed.

II. In any regular or summary suit, appeal or proceeding in any of the Civil Courts of the East India Company, and also in any summary suit, or other proceeding of a civil nature before any Court, Officer, or other person having by law or by consent of parties authority to examine witnesses, any party to such suit, appeal, or proceeding, shall be competent and entitled to give evidence as a witness either on his own behalf, or on behalf of any other party to the suit, appeal, or proceeding in the same manner as if he were not a party to the same. Provided that no party to a suit, appeal, or proceeding, who shall offer himself as a witness therein, shall, without the consent of all parties thereto, be examined otherwise than in open Court, in such manner as the Court may direct having regard to the usages and customs of the country, unless such examination shall be taken under, and subject to the Rules prescribed by Section XXXII. or XXXVIII. of this Act.

III. No person shall by reason of any interest in the result of any suit or of any interest connected therewith, or by reason of relationship to any of the parties thereto, be incompetent to give evidence in any such suit.

IV. A husband or wife shall be competent to give evidence for or against the other provided that the examination shall take place in open Court, in such manner as the Court may direct having regard to the usages and customs of the country, or that it be taken and read under and subject to the Rules prescribed in Section XXXII. or XXXVIII. of this Act, provided also that any communication made by husband or wife to the other during their marriage shall be deemed a privileged communication, and shall not be disclosed without the consent of the person making the same, unless such communication shall relate to a matter in dispute in a suit pending between such husband and wife.

V. Any party to a suit may be compelled to give evidence as a witness therein, and also to produce any document in his possession or power, in the same manner, by the same process, and subject to the same Rules, as if he were not a party to the suit, except so far as is otherwise provided by this Act. Provided that no Court need to compel the attendance of any party to such suit, for the purpose of giving evidence therein if such

party shall satisfy the Court that he has no personal knowledge of any material subject of inquiry in the suit, and that he cannot give any material evidence therein. Nothing in this Clause shall exempt any party to a suit from being summoned to produce a document.

VI. After the parties in a suit in which according to the practice of the Court a day is fixed for the hearing, shall have filed their exhibits and lists of witnesses, the Court shall by an order in writing, appoint a day, not less than fifteen days after the date thereof, for the examination of witnesses and the hearing of the suit.

VII. The list of witnesses required to be furnished in any suit shall include the names of all the witnesses, whether parties to the suit or not, whom the party filing the list may intend to call as winesses or whom he may require to be summoned to give evidence or produce any document, also a list of the documents which he may require to be produced.

VIII. If any party to a suit shall require the attendance of any other party thereto as a witness to be enforced, he shall by himself or his pleader make a special application to the Court for an order for a summons to compel the attendance of the party, and shall show to the satisfaction of the Court sufficient grounds in support of such application, otherwise a summons shall not be issued. In cases in which, according to the practice of the Court, a day is fixed for the hearing, the application shall be made before such day shall be fixed.

IX. The Court, upon the application of the Pleader of any party to a suit whose attendance as a witness is required, or without such application, if the Court think fit so to do, may, before making such order cause notice to be given to the party or his pleader fixing a day for such party to shew cause why he should not attend and give evidence and may also, from time to time, if necessary, for good and sufficient cause, enlarge the time for such purpose.

X. *Clause* 1.—In support of the cause shown, the Court shall receive a declaration in writing of the party, if signed by him, and delivered into the Court by himself or his pleader.

Clause 2.—If the party making such declaration shall wilfully and corruptly make any false statement therein, he shall be

deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.

XI. If no sufficient cause be shown on the day fixed or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall cause a summons to be issued for compelling the party to attend and give evidence.

XII. The Court on the requisition of any party to a suit, or his pleader, may cause a summons to be issued to every person who shall be required to produce any material document. Previously to the issuing of any summons for the attendance of any person to give evidence or produce a document, the party requiring the same shall pay into Court such sum as shall appear to the Court to be reasonable, to defray the travelling or other expenses of such person in passing to and from the Court in which he may be required to attend and give evidence, and for one day's attendance thereat. In fixing the sum to be paid into Court, regard shall be had to the rules, if any, established by the Court or Board, if any, to which such Court shall be subordinate. The sum so paid into Court shall be tendered to the witness at the time of serving the summons if it can be served personally. In addition to the sum so paid into Court, the Court before whom any person who may attend in pursuance of a summons, or proclamation to give evidence or produce any document, may order such further sum to be paid to the person so attending by the person causing the summons or proclamation to be issued, as may appear to be necessary to defray his travelling and other expenses, and also the expenses of his detention under the summons, or proclamation, and in case of default in payment, may order such sum to be levied by attachment and sale of the goods of the person ordered to pay the same, and the witness shall not be bound to give evidence or produce any document until such sum shall be paid.

XIII. Every summons for the attendance of a witness to give evidence, or to produce a document shall require the intended witness to attend at a time and place to be named in the summons, and shall also state whether the attendance of the witness is required for the purpose of giving evidence, or producing a document, or for both purposes. If a witness, whether a party to the suit or not, is required to attend and to produce

before the Court any document alleged by the party summoning him to be in his possession or power, a direction to attend the Court with such document, shall be inserted in the summons, and the document which the witness may be so called upon to produce shall be described in the summons with convenient certainty.

XIV. Every such summons shall, if possible, be served personally upon the person thereby required to attend, by showing the original to such person, and at the same time delivering or tendering to him a copy thereof.

XV. Such service must be made a sufficient time before the time specified therein for his attendance to allow the witness a reasonable time for preparation and for travelling to the place at which his attendance is required.

XVI. Any person, whether a party to the suit or not may be summoned to produce a document without being summoned to give evidence, and any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced, instead of attending personally to produce the same.

XVII. Any person who shall be summoned to appear and give evidence shall be bound to attend at the time and place named for that purpose.

XVIII. Any person attending to produce a document may be called upon to produce the same without being sworn or examined as a witness.

XIX. A witness not a party to the suit or proceeding in which he is summoned, shall not be bound to produce his own title deeds, unless he shall have agreed in writing with the party requiring the production thereof, or with some person through whom he claims to produce such deeds. [See Act 10, 1861.]

XX. A witness, whether a party or not, shall not be bound to produce any document relating to affairs of State, the production of which would be contrary to good policy, nor any document held by him for any other person who would not be bound to produce it if in his own possession.

XXI. A witness being a party to the suit shall not be bound to produce any document in his possession or power which is not relevant or material to the case of the party requiring its pro-

duction, nor any writing or correspondence which may have passed between him and any legal professional adviser. If any party, however, offer himself as a witness, he shall be bound to produce any such writing or correspondence, in his custody, possession, or power, if relevant or material to the case of the party requiring its production.

XXII. Every witness summoned to produce a document shall, if the same be in his custody, possession, or power, be bound to produce it, or cause it to be produced to the Court, although there be a valid objection to the right of the party calling for it to compel its production, or to the reading, or putting it in as evidence, or to the disclosure of the contents thereof; the validity of any such objection made by the person producing the document shall be determined by the Court, and for the better determination thereof, it shall be lawful for the Court to receive any admissible evidence which the person producing the document may give respecting it, and it shall also be lawful for the Court to inspect the document, and if necessary to call to its assistance any person whom it may appoint to interpret the same. Such person, however, shall be previously sworn truly to interpret the same to the Court alone, and not to disclose the contents thereof except to the Court, unless the Court shall order the document to be given in evidence. If the Court shall be of opinion that such document should not be produced, the Court shall not disclose the contents thereof to the parties, or take any note, or make any mention of the contents or effect thereof in its judgment or proceedings, but shall return the document at once to the party producing the same, having previously marked the same for the purpose of identification, and shall record in its proceedings that a document, identifying it by the mark put upon it, was called for, by the person, naming him, who shall call for its production, that the person having the possession of the document, naming him, objected to its production, and the reasons, if any, for such objection, together with the reasons of the Court for refusing to compel its production. If the Court shall refuse to enforce the production of a document, or to receive the same in evidence, the Court of appeal may, upon a regular appeal, compel the production of such document, and if such Court shall think that the production of the same ought to

have been enforced, or that it ought to have been received in evidence, may themselves enforce its production, and receive it in evidence, and decide the case upon such document, coupled with the other evidence given in the suit.

XXIII. A barrister, attorney, or vakeel, shall not, without the consent of his client, disclose any communication made by the client to him in the course of his professional employment, nor any advice given by him professionally to his client, nor the contents of any document of his client, the knowledge of which he shall have acquired in the course of his professional employment. The privilege, however, is that of the client, and if any party to a suit shall give evidence therein at his own instance, he shall be deemed thereby to have waived his privilege, and to have consented to the disclosure by such barrister, attorney, or vakeel, of any such matter as aforesaid, which may be relevant, and which the barrister, attorney, or vakeel, would have been bound to disclose, but for the privilege of his client, and the barrister, attorney, or vakeel, shall be bound, upon examination, to disclose any such matter.

XXIV. If any witness, whether a party to the suit or not, to whom any summons to give evidence or produce a document, shall have been personally delivered, shall, without lawful excuse, fail to comply with such summons as required by this Act, or attending, or being present in Court, shall, without lawful excuse, refuse to give evidence, or to subscribe his deposition, or to produce any document in his custody or possession, named in such summons as aforesaid, upon being required by the Court, so to do, the Court shall have full power and authority to issue an order in writing to the nazir to apprehend and bring the witness before the Court; or, if he be already before the Court, to take him into custody. And such Court may impose on such witness a fine not exceeding five hundred rupees for his default or refusal, realizable by attachment and sale of his property, and may commit him to close custody until he shall consent to give his evidence or to sign his deposition, or to produce the document, and any such fine as aforesaid shall be levied and recovered by attachment and sale of the property of such person. Provided that no fine imposed under the provisions of this section shall exceed the amount of the property in dispute in the suit. If

any such person shall abscond, or keep out of the way, so that he cannot be seized or brought before the Court, his property shall be liable to attachment and sale in the same manner as is provided by Section XXVII. of this Act, with respect to a witness on whom the service of a summons cannot be effected. If such person shall be a party to the suit, the Court, instead of proceeding in the manner above pointed out, may, if the witness be a plaintiff, appellant, or petitioner, dismiss the complaint, appeal, or petition, with costs against such party, or if such party be a defendant or respondent, may hear and decide the case against such defendant or respondent *ex-parte*. If any such complaint, appeal, or petition shall be dismissed for such cause, the complainant, or petitioner shall be debarred from preferring any other petition, appeal or complaint in respect of the same matter.

XXV. Any person present in Court, whether a party or not, may be called upon and compelled by the Court to give evidence, and produce any document then and there in his actual possession, or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence, or to produce such document, and may be punished in like manner for any refusal to obey the order of the Court.

XXVI. Any person, whether a party to the suit or not, to whom a summons to attend, and give evidence or produce a document, shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded, or kept out of the way to avoid being served with such summons, and any person who, being in Court and upon being required by the Court to give evidence, or produce a document in his possession, shall, without lawful excuse, refuse to give evidence, or sign his deposition, or to produce a document in his possession, shall, in addition to any proceedings under this Act, be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence, or produce the document, for all damages which he may sustain in consequence of such neglect, or refusal, or of such absconding, or keeping out of the way as aforesaid, to be recovered in a civil action. [See Act X., 1861.]

XXVII. If a person, whether a party to a suit or not, for whose attendance either to give evidence or produce a document

a summons shall be issued, cannot, after diligent search, to be certified by a return of the nazir, be found, the Court upon proof that the evidence of such witness, or the production of the document is material, and that the witness absconds or keeps out of the way to avoid being served with a summons, and that he could not, after diligent search, be found or served with the summons, may cause a proclamation requiring the attendance of such person to give evidence, or produce the document at a time and place to be named therein, to be affixed, in the presence, and with the attestation of two respectable householders, in some conspicuous place, upon or near to his house or place of abode, and if such person shall not attend at the time and place to be named in such proclamation, and it be proved to the satisfaction of the Court that the witness cannot be found, his property, real and personal, to such amount as the Court shall deem reasonable (but subject to the same limitation as to the articles exempt from attachment as in case of attachment for arrears of rent), shall be liable, under an order of the Court, to attachment and sale. Provided always, that when the order for attachment and sale shall have been issued by any Court subordinate to the Court of Sudder Dewanny Adawlut, a summary appeal shall lie within one month from the date of the order of the subordinate Court to the Court to which its orders are generally appealable; and that the Rules for the time being in force in regard to sales made in execution of decrees, as to the mode and period of attachment and the place or manner of sale, and as to claims of third parties to property attached and notified for sale, shall be held applicable to such sales.

XXVIII. *Clause* 1.—The cost of the attachment shall be borne in the first instance by the party applying for it, and the Court issuing the summons and attachment shall not proceed to sale of the property, but shall order the same to be released from attachment if the witness shall appear and satisfy the Court that he did not abscond or keep out of the way to avoid service of a summons, and that he had not notice of the proclamation in time to attend at the time and place named therein. Upon the appearance of such witness, the Court shall make such order in regard to the costs of the attachment as it shall deem fit. If the witness appearing shall fail to satisfy the Court that he did not

abscond or keep out of the way to avoid service of a summons, and that he had not such notice of the proclamation as aforesaid, it shall be in the discretion of the Court to order the property attached, or any part thereof, to be forfeited and sold for the purpose of satisfying all costs incurred in consequence of such default, absconding or keeping out of the way, and such fine not exceeding the amount in dispute in the suit as the Court may deem fit to impose upon the witness, having regard to all the circumstances of the case, and the condition in life of the witness, or the Court may order the property to be released from attachment upon payment of such costs and fine as aforesaid.

Clause 2.—An order made in pursuance of this Section shall be subject to appeal in the same manner and within the same period, as an appeal against an order for attachment and sale under the last preceding Section of this Act.

XXIX. All orders as to fines, or the levying thereof, or as to imprisonment under this Act, shall be subject to a similar appeal within one month from the date of the order.

XXX. It shall not be necessary to postpone the hearing or decision of a case for the non-production of a document, or for the evidence of a witness, who may neglect, or refuse to attend, or who shall abscond, or keep out of the way, or who cannot be served with a summons, beyond such period as shall appear proper to the Court, having regard to all the circumstances of the case; provided that when a summons shall have been issued for the attendance of a plaintiff or appellant in a suit to give evidence, or produce a document, the Court shall, at the request of the defendant or respondent, unless there be good reason to the contrary, postpone the hearing or decision until the plaintiff or appellant can be personally summoned, or shall attend and give evidence, or produce the document required, and that where a summons shall have been issued for the attendance of a defendant or respondent to give evidence, or produce a document, the hearing or decision shall, upon the application of the plaintiff or appellant, be postponed in like manner, unless there be good reason to the contrary, until the defendant or respondent can be personally summoned, or shall attend and give evidence, or produce the document required.

XXXI. On the day appointed for the hearing, the evidence

of the attending witnesses shall be taken orally in open Court, in the presence and hearing, and under the personal direction and superintendence of the Judge. The evidence of each witness given upon such examination shall be taken down in writing, by or in the presence and under the superintendence of the Judge, not ordinarily by question and answer, but in the form of a narrative, and when completed shall be read over to the witness, and signed by him in the presence of the Judge and of the parties to the suit or their vakeels, or such of them as may think fit to attend. In case the witness shall refuse to sign the deposition, the Judge shall sign the same, and record the reason, if any, given by the witness for such refusal, together with such remarks thereon as the Judge shall think fit to make. It shall be in the discretion of the Judge to take down, or cause to be taken down, any particular question and answer if there shall appear any special reason for doing so, or any party, or his vakeel, shall require it. If any question put to a witness be objected to by either of the parties, or their vakeels, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Judge shall also record such remarks as he may think material respecting the demeanor of any witness whilst under examination.

XXII. In cases where the evidence is needed of females, who according to the custom of the country ought not to be compelled to appear as witnesses in a Court of Justice, and in which the Court shall be of opinion that the ends of justice require and justify it, such Court may issue a commission to any Officer of the Court or other person, to be named in such commission, for the examination of such females in the hearing of the parties to the suit or their vakeels, in such manner as the Court may direct, having regard to the custom and usage of the country, and with liberty to the parties or their vakeels, to cross-examine, any thing in Section V., Act VII., 1841, to the contrary notwithstanding.

XXXIII. On or before the day appointed for trial, the Court may, for any sufficient reason, such as the unavoidable absence of any material witness, or for other good cause, on the applica-

tion of either party, postpone the hearing to another day, to be named, on such terms as to the payment to the opposite party of his costs occasioned by the postponement, and otherwise as to the Court shall seem reasonable. In such case notice in writing shall be given to each of the witnesses to attend and give evidence, or to produce a document on the substituted day, instead of the day mentioned in their summonses, if there be time to do so and the Judge shall so order. The notice shall be served in the same manner as a summons. The service of such notice shall have the same effect as if the substituted day had been originally named in such summons as the day for the appearance in Court to give evidence or produce a document, and all the provisions in this Act relating to summonses to give evidence or produce documents, shall extend to such notices in the same manner as if such notices had been expressly mentioned in such provisions. If the application be too late to serve such notices, the Court may order that the examination of any witness who may be present, or shall attend in pursuance of a summons, shall be proceeded with, and that the further hearing of the case, after the examination of such witness, shall alone be postponed.

XXXIV. Unless the hearing be postponed in manner aforesaid, it shall commence on the day appointed, or as soon afterwards as the business which may be pending before the Court and may be entitled to priority will allow, and the recording of evidence on the trial of any suit when begun under the rules above enacted, shall, unless there be good and sufficient reason to the contrary (which reason shall be recorded), continue on the same day, or on consecutive business days, until the whole of the evidence of the witnesses present shall be heard. The parties or such of them as desire it shall then be heard either by themselves or their pleaders orally on the merits of the case as regards the issues both of fact and law, and after considering the argument and evidence, the Judge shall record his judgment under Act XII., 1843.

XXXV. If the Court, after the evidence of all the witnesess shall have been heard, and before hearing the pleaders or recording the judgment, shall think it necessary for the ends of justice to inspect any document, or to examine any party to the suit, or any other person whose evidence may appear to be material,

the Court, of its own accord, may cause such party or person to be summoned to attend as a witness, to give evidence, or to produce such document, if in his possession, on a day to be appointed, and may examine such party or person as a witness in open Court or in such other manner as the Court may direct, upon any question which the party or witness may be bound to answer and the Court may think necessary, and may also compel the production of any document mentioned in such summons, which any such person may have in his possession or power, and be bound to produce. Any witness so called shall be subject to the cross-examination of either party, or his vakeel. If such person, whether a party or not, shall be a female, who, according to the custom of the country, ought not to be compelled to appear as a witness in a Court of Justice, the Court may order such person to be examined in the manner provided by Section XXXII. of this Act, upon such questions as it may direct. The Commissioner or other person authorized to take the examination in such case may put such further questions as in his judgment may be necessary, or may arise out of the answers to be given to the questions directed by the Court.

XXXVI. The Judge may cause public notice to be given in Court, either before or during the examination of any witness, requiring all or any other witnesses, whether parties or not who have been summoned or inserted in the list of witnesses in the same cause, to leave and to remain out of Court until further order. Any witness in a cause who without lawful excuse shall wilfully remain in, or come into Court, contrary to such notice, shall be punishable in the same manner as for a contempt of Court in open Court. Whenever such notice shall be given, the consequence of disobedience thereto shall be publicly explained at the time of giving the notice.

XXXVII. Any party to a suit, appeal or proceeding who may be examined as a witness therein, shall, except as otherwise provided by this Act, be examined according to the rules for the time being in force as to the examination of witnesses not being parties to the suit, and shall be punishable for any false evidence given by him, in the same manner as if he were not a party.

XXXVIII. The words "witness" and "witnesses" in Act VII., 1841, shall respectively include any party or parties to a

suit, and the said Act shall be read as if the words "or party" "or parties" had been used in such Act, in conjunction with the words "witness" or "witnesses" respectively. Provided that the deposition of a party taken under the provisions of this Section at the instance of any opposite party may be read in evidence by, or on behalf of, such last-mentioned party, without the proof required by Section V. of the said Act. Provided also, that no deposition of any party taken under the provisions of this Section shall be read or used in evidence unless taken and read at the instance of some opposite party, or unless it shall be proved that the deponent is unable, from sickness or infirmity, to attend to be personally examined, or is, without collusion, or any reference to the suit, at so great a distance from the Court, that, in the judgment of the Court, it would be unreasonable to require his personal attendance in Court for the purpose of giving such evidence, in which last-mentioned case it shall be discretionary with the Court, having regard to the nature of the case and of the evidence given, either to allow or to refuse such deposition to be read.

XXXIX. No appeal shall lie from any order or decision of a Judge with respect to summoning or examining any party to a suit, or as to allowing a deposition to be read under the Section next preceding.

XL. If any party to any such suit as aforesaid shall, in any pleading or statement, refer to any document in his possession or power, as a material proof or document in support of his claim or defence, he shall file such document with the pleading or statement, unless the Court shall, for good and sufficient cause, extend the time for filing the same; and any adverse party shall be entitled, by himself, or his vakeel, to inspect and take a copy of the document. [Repealed by Act X., 1865, s. 1.]

XLI. In the construction of this Act, unless where it is otherwise expressly provided, or there is something in the subject or context repugnant to such construction, or which would render such construction inapplicable to the case, the word "Court" shall mean any Civil Court of the East India Company, and shall include any Judge or other officer or person mentioned in Section II. of this Act; the word "Judge" shall be understood to mean the chief judicial authority presiding in any such

Court, and shall include any officer or person having, by law or consent of parties, authority to examine witnesses and to act judicially; the word "suit" shall be deemed to mean and include any suit, appeal or proceeding mentioned in Section II.; the word "witness" shall include all persons competent and liable to give evidence, whether parties to any suit or proceeding or not. Words importing the masculine gender or singular number shall include the feminine gender or plural number, and *vice versâ*.

XLII. This Act shall extend only to Civil proceedings, and to the Presidency of Fort William in Bengal, and shall not include any of Her Majesty's Supreme Courts of Judicature.

XLIII. The provisions of Sections IX., X., and XI. of this Act shall not extend to the Zillah of Chittagong or Sylhet.

XLIV. This Act shall come into operation on the 1st day of January, 1854.

See Act II., 1855, An Act for the further improvement of the Law of evidence.

Repealed by Act X., 1861, so far as it is applicable to any suit or proceeding under Act VIII., 1859, except sections 19 and 26. In virtue of this exception the Act remains in force in parts to which Act VIII. has not been extended.

ATTORNIES, PLEADERS, AND BARRISTERS.

Act No. XX. of 1853.

[*Passed on the 8th December*, 1853.

1. Repeals Beng Reg 27, 1814, s. 16, and Mad Reg. 14, 1816, s. 16.

2 Relieves Pleader from the obligation of attending in Court, except when business in which he is engaged may come on.

3. Extends to Attornies of Supreme Courts the rights of pleading in the Sudder Courts as Barristers.

4. Exempts Attornies in E. I. Co.'s Courts from specified part of Act IV., 1846.

An Act to amend the Law relating to Pleaders in the Courts of the East India Company.

Whereas it is expedient to amend the law relating to Pleaders in the Courts of the East India Company, it is enacted as follows:

I. Section XVI., Regulation XXVII. of 1814, of the Bengal

Code, and Section XVI., Regulation XIV., of 1816, of the Madras Code, are hereby repealed.

II. No Pleader shall be bound to attend in any of the Courts of the East India Company, on any day fixed for the transaction of Civil business, or to notify to the Court his inability to attend, unless he shall be employed in some cause or business which according to the practice of the Court, may be heard or transacted therein on that day, anything in any law or regulation to the contrary notwithstanding.

III. Every Attorney on the roll of any of Her Majesty's Supreme Courts of Judicature in India shall be entitled as such to plead in any of the Sudder Courts of the East India Company, subject however to all the rules for the time being in force in the said Sudder Courts respectively, applicable to Barristers pleading therein, whether relating to the language in which the Court is to be addressed or to any other matter.

IV. That part of Section IV., Act No. I., of 1846, which provides that no person shall be admitted a Pleader in any of the Courts of the East India Company, unless he have obtained a Certificate in such manner as shall be directed by the Sudder Courts that he is of good character and duly qualified for the Office, shall not extend to Barristers or Attornies of any of the said Supreme Courts; but every such Barrister and Attorney shall be entitled as such to plead in any of the Courts of the East India Company subordinate to the Sudder Courts, subject to all the rules in force in the said subordinate Courts respectively applicable to Pleaders therein, so far as such rules relate to the language in which the Court is to be addressed or to any other matter connected with pleading therein.

See Act XX., 1865, "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865."

THE GOVERNOR GENERAL.

ACT No. XXI. OF 1853.

[*Passed on the 9th December*, 1853.

1. Empowers the G. G. to carry on all the powers of Government away from Council, except such as the Council may reserve for itself and except the power of making Laws.

2. Act to be in force for 2 Months.

An Act for providing for the exercise of certain Powers by the Governor General during his absence from the Council of India.

Passed on occasion of the G. G. visiting Pegu and other Eastern Provinces.

Obsolete.

MADRAS.—LAND FOR PUBLIC WORKS.

Act No. I. of 1854.

[*Passed on the 3rd February*, 1854.

1. Extends Act 20, 1852, in a modified manner to Land in Madras.
2. Extends to Supreme Court as to Land in Madras, powers possessed by Zillah Court, out of it.
3. Deposits on account of Land placed under same regulations as suitors' money in Supreme Court.
4. Interest on deposits to be paid to persons who would have been entitled to the original fund.
5. Extends jurisdiction of Madras Small Cause Court to claims of deposits under 500 Rupees.

An Act to amend the Law for facilitating the acquisition of land needed for public purposes within the local limits of the jurisdiction of the Supreme Court of Judicature at Madras.

Repealed by Act VI., 1857.

BOMBAY.—PETTY SESSIONS' ASSESSOR.

Act No. II. of 1854.

[*Passed on the 3rd February*, 1854.

1 and 2. Abolishes the Office of Assessor to Petty Sessions.

An Act to abolish the Office of Assessor to the Court of Petty Sessions at Bombay.

Whereas it is unnecessary to continue the Office of Assessor to the Court of Petty Sessions at Bombay, it is enacted as follows:

I. So much of Article 2, Title 2, of the Rule, Ordinance, and Regulation I. of 1834, passed by the Governor in Council

of Bombay, as enacts that the Court of Petty Sessions at Bombay therein mentioned shall constantly be attended by a Barrister-at-law, as and by way of Assessor to the said Court, such Assessor to be a Justice of the Peace and an Advocate of the Supreme Court of Judicature at Bombay, and to be appointed and removeable by the Governor in Council, is hereby repealed.

II. It shall not be necessary for the said Court of Petty Sessions to be attended by any person as or by way of Assessor to the said Court.

NATIVE ARMY.

Act No. III. of 1854.

[*Passed on the 3rd February*, 1854.

Amends the 38th Article of War, by prohibiting the pawning of any medal or decoration for service, &c.

An Act to amend the 38th Article of War for the Native Army.

Repealed by Act XXIX., 1861.

BOMBAY.—CANTONMENT BAZAARS.

Act No. IV. of 1854.

[*Passed on the 3rd February*, 1854.

1. Superintendent of Bazaars may execute a sentence in the Criminal or Excise branch of his duty without submitting his proceedings to the Commanding Officer, in specified petty cases.

An Act relating to the execution of Sentences in petty cases by Superintendents of Bazaars in the Presidency of Bombay.

Whereas the rule which prohibits a Superintendent of Bazaars in the Presidency of Bombay from executing any sentence in the Criminal or Excise branches of his duties, until he has submitted his proceedings to the Commanding Officer, and which requires that trials before a Superintendent of Bazaars shall be recorded as usual on Courts Martial, has been found to be productive of

unnecessary inconvenience and delay in petty cases, and it is expedient to abolish the rule in such cases, it is hereby enacted as follows:

I. So much of Section XXX., Regulation XXII., 1827, of the Bombay Code, as enacts that the Superintendent of Bazaars shall not execute any sentence in the Criminal or Excise branch of his duties until he has submitted his proceedings to the Commanding Officer, and that his trials shall be recorded in writing as usual on Courts Martial, is hereby repealed, so far as it shall relate to any sentence which shall hereafter be passed by any Superintendent of Bazaars by which any fine not exceeding three rupees, or any imprisonment not exceeding three days, shall be ordered.

BENGAL—BONDED WAREHOUSE ASSOCIATION.

Act No. V. of 1854.

[*Passed on the* 10*th February*, 1854.

1. Repeals ss. 12, 14, 32, and 37 of Act 5 of 1838.

2. Business to be managed by six Directors, three to be a quorum.

3. Directors to go out of office before Annual Meeting of May in new election to be made then, and old Directors to be re-eligible.

4. Qualification of Director, 5 shares in his own right.

5. Ordinary General Meeting to be held twice a year, and when; and may declare dividend, but not out of Capital.

6. Empowers Association to make Bye-laws.

7. Corporation may be dissolved after 5 years from date of order to that effect, but no such order to be made till after 14th March, 1860.

An Act to amend Act No. V. of 1838, relating to the Bengal Bonded Warehouse Association.

Whereas the Bengal Bonded Warehouse Association are desirous that the provisions of Act No. V. of 1838 should be amended, and it appears reasonable that such amendment should be made, it is enacted as follows:

I. Sections XII., XIV., XXXII., and XXXVII. of the said Act are hereby repealed.

II. The business of the said Association shall be managed by six Directors, three of whom shall form a quorum.

III. The two Directors who are to go out of office by rotation in every year shall go out of office in the month of May, before the holding of the Ordinary General Meeting of Proprietors directed to be holden in that month, and at such Ordinary General Meeting two Directors shall be chosen, and the Directors so going out of office, or either of them, shall be capable of being re-elected in the same year at such General Meeting.

IV. No person shall be capable of being a Director of the said Association who shall not be a proprietor in his own right of five shares of the capital stock of the said Association.

V. Ordinary General Meetings of the said proprietors shall be held at least twice in every year, that is to say, on the second Wednesday in the month of May, and the second Wednesday in the month of November, and at every such Ordinary Meeting the Directors of the said Association shall present a report in writing of the state of the affairs of the said Association and a balance-sheet; and such General Meeting may declare a dividend out of the profits of the said Association, provided that no dividend shall be made which shall diminish the capital of the said Association.

VI. It shall be lawful for the said Association to make Bye-laws for the Regulation of its own proceedings, which Bye-laws shall be binding only on its own Members and Officers, provided that no such Bye-law shall be valid till it shall have been approved of by one Extraordinary General Meeting of proprietors specially convened for that purpose, provided also that no such Bye-law shall be valid till it shall have been confirmed by the Governor of the Presidency of Fort William in Bengal.

VII. At any time after the 14th day of March, 1860, it shall be lawful for the Governor General of India in Council by an order in Council to direct that the said Association shall be dissolved at the expiration of five years from the date of such order, and such order shall of itself have the effect of dissolving the said Corporation at the expiration of the said space of five years, except for the purposes mentioned in Section XXXIX., Act No. V. of 1838.

SUPREME COURTS.—BENGAL, MADRAS, AND BOMBAY.—EQUITY PROCEDURE.

ACT NO. VI. OF 1854.

[*Passed on the* 10*th February*, 1854.

1, 2. Prescribes in what style and form Bills in Equity shall be; they shall not contain any interrogatories; but (2) plaintiff may file interrogatories afterwards if he requires an answer, and defendant not obliged to answer if interrogatories are not filed.

3. Regulates the defendant's right as to answering, &c.

4. Prescribes the form of the answer.

5. Plaintiff may on notice move for such decree as he may think himself entitled to, and affidavits may be made on both sides. Such motion not to be where there has been a replication.

6. Court may make decree on motion.

7. Exceptions for scandal and impertinence discontinued, but scandalous or impertinent matter may be ordered to be expunged.

8. Court may order defendant to produce documents whether he has answered or not

9. Substitutes interrogatories by defendant for cross bill of discovery, &c., except by order of Court.

10. Empowers Court to order plaintiff to produce documents.

11. Same formalities as in swearing affidavit, sufficient in swearing pleas, answers, &c.

12. Issue to be joined by a replication when decree not moved for; and defendant not answering to be considered a traverse of the plaintiff's case.

13. Motion to dismiss bill where no answer required, to be regulated by rules.

14. Affidavits to be paragraphed, and paragraphs numbered.

15. With consent of all parties, their cases may be verified by affidavit.

16. Regulates mode of proof. Evidence generally to be given orally, but Court may order examination on interrogatories, or receive affidavits.

17. Further regulates mode of proof. On hearing of suit or any motion, &c., Court may order oral examination, &c.

18. Further regulates mode of proof. Parties may obtain subpœnas for attendance of witnesses, &c.

19, 20. Persons making affidavits may be required to attend to be cross-examined on them, &c., (20) provides for costs in such cases.

21. Prescribes rules for the institution of claims by residuary legatees, next of kin, heirs, executors, &c, &c., and in cases to which the rules apply defendant not to object want of parties.

22. Cause never to be set down on objection for want of parties.

23. In suits concerning matters in which a deceased person not represented is interested, Court may order for his representation.

24, 25, 26. Creditors, &c, may without bill, &c., obtain summons on

executor or administrator for administration of estate. (25) Duplicate for summons to be filed. (26) Same procedure to be pursued for obtaining administration of Hindoo and Mahomedan estates.

27. In suits for foreclosure Court may order sale, &c.

28. Suits not to be dismissed for misjoinder of parties as plaintiffs.

29. Suit not to be open to objection on ground that merely declaratory decree is sought, &c.

30. Court may adjudicate on matters in which others besides the parties to the suit have an interest and though connected with other matters not before the Court.

31. Regulates mode of receiving suits.

32. Dispenses with supplemental bill in case of new matter arising after filing of bill and regulates mode of bringing new matter before the Court.

33. Empowers the Court to direct in what manner accounts shall be taken.

34. Empowers the Court to order the sale of real estate, if necessary, for purposes of suit.

35. Empowers the Court to allow to parties interested the free enjoyment of any portion of property over and above what is necessary for the objects of the suit.

36. On application for injunctions or receiver, the answer to be regarded merely as an affidavit, and affidavits may be read in opposition thereto.

37. In case of departure from regular course of practice, Court may allow correction of proceedings.

38. The Court may determine questions of legal right or title arising, without referring it to common law side.

39. Empowers Court to refer to judge, matters not referred to master, or to decide without any reference.

40. Report of master deemed to be confirmed if no exceptions filed within 14 days.

41. No reference to Court or to master after exceptions necessary, but Court or Judge may decide.

42. Judge in chambers may decide on application for time to plead, &c., leave to amend, &c., for production of documents, &c., the conduct of suits, guardianship, management of property, &c.

43. Empowers the Court to make general rules, &c.

44. Interpretation clause.

45. Act to take effect from 1st May, 1854.

An Act to amend the practice and course of proceeding on the Equity side of Her Majesty's Supreme Courts of Judicature at Fort William in Bengal, Madras, and Bombay.

Whereas it is expedient to amend the practice and course of proceeding on the Equity side of Her Majesty's Supreme Courts of Judicature at Fort William in Bengal, Madras, and Bombay respectively, it is enacted as follows:

XIV. Every affidavit to be used in any of the said Courts shall be expressed in the first person, and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. Provided that nothing herein contained shall preclude the Court or any Judge thereof in any case in which such Court or Judge may think fit so to do, from allowing any affidavit to be used, notwithstanding the same may not be made according to the provisions of this Section.

XV. When any suit commenced in any of the said Courts by bill shall be at issue, the Court or a Judge thereof may upon the application of any of the parties to the suit, and by consent of all the other parties thereto, make an order that the parties shall be at liberty to verify their respective cases by affidavit, and such cases may thereupon be verified accordingly. If any one or more of the parties, who shall not have a sufficient interest in the matters in question to require the evidence to be oral, shall not consent to the making of such order, the Court or a Judge thereof, may make the same without the consent of such party or parties.

XVI. If no such order shall be made, the evidence to be adduced in the cause after issue joined therein shall be taken orally before the Court, and the attendance of witnesses and the production of documents may be enforced in the manner for the time being in use on the Common Law side of the said Courts respectively; provided that the Court may order any particular witness or witnesses within the jurisdiction of the Court, or any witness or witnesses out of the jurisdiction of the Court, to be examined, upon interrogatories or otherwise, under a commission, and to make such order relating to such examination as the Court may think fit; and provided also that affidavits of particular witnesses, or affidavits as to particular facts or circumstances, may by consent of the parties, or by leave of the Court obtained upon notice, be used on the hearing of any cause; such consent, and also the consent required by Section XV. of this Act, may, with the approbation of the Court, be given by or on the part of any married woman, infant or other persons under disability. [Extended by Act II., 1855, s. 53, to all Civil actions, &c.]

XVII. Upon the hearing of any suit depending in any of

the said Courts, whether commenced by bill or claim, and also upon the hearing of any motion, petition or other proceeding in any of the said Courts, the Court may, upon the application of any of the parties thereto, or of its own accord, require and enforce the attendance and oral examination before itself of any witness, or of any party to the suit, and may also require and enforce the production of any document or documents, and may direct the costs of the attendance and examination of such witness or party and of the production of such document or documents to be paid by such of the parties to the suit, or in such manner as it may think fit. [Extended by Act II., 1865, s. 54, to all civil actions, &c.]

XVIII. Any party in any suit or matter may, by order of the Court or of a Judge thereof, issue a writ of subpœna and testificandum or duces tecum, for the purpose of compelling the attendance of any person before the said Courts, or before a Commissioner or Commissioners at a time and place to be specified in such subpœna, to give evidence and produce documents in support of or in opposition to any claim, motion, petition, or other proceeding before the Court; and every person served with such subpœna shall be bound to attend in pursuance thereof, and to produce documents, and to give evidence, in like manner and subject to the same rules as a witness subpœnaed to attend or produce documents upon the trial of any cause in the said Court.

XIX. Any person who shall make an affidavit which shall be used or filed by any party to a suit in any of the said Courts, may, by the order of the Court or of a Judge thereof, be subjected to oral cross-examination by or before the Court, or by or before a Commissioner or Commissioners, and may be subpœnaed to attend for that purpose, and to produce any document or documents, at a time and place to be specified in the subpœna; and any person so subpœnaed shall be bound to attend and produce such document or documents in pursuance of such subpœna, in the same manner and subject to the same rules, as a witness subpœnaed to attend and give evidence or produce documents on the trial of a cause, and such person may be cross-examined and re-examined orally; provided that the Court shall always have a discretionary power of acting upon such evidence as may be

before it at the time, and of making such interim orders as may appear necessary to meet the justice of the case.

XX. The costs of the attendance of any person, for the purpose of cross-examination as aforesaid, and of the said cross-examination and re-examination, shall be paid by the parties respectively, in like manner as if the person so attending to be cross-examined were the witness of the party cross-examining, and shall be deemed costs in the cause of such parties respectively, unless the Court shall otherwise direct.

XXI. It shall not be competent to any defendant in any suit in any of the said Courts to take any objection for want of parties to such suit, in any case to which the rules hereinafter set forth extend, and such rules shall be deemed and taken as part of the law and practice of the said Courts respectively, and any law or practice of any of the said Courts inconsistent therewith shall be and is hereby abrogated and annulled

Rule 1st.—Any residuary legatee or next of kin may, without serving the remaining residuary legatees or next of kin, have a decree for the administration of the personal estate of a deceased person.

Rule 2nd.—Any legatee interested in a legacy charged upon real estate and any person interested in the proceeds of real estate directed to be sold, may, without serving any other legatee or person interested in the proceeds of the estate, have a decree for the administration of the estate of a deceased person.

Rule 3rd.—Any residuary devisee or heir may, without serving any co-residuary devisee or co-heir, have the like decree.

Rule 4th.—Any one of several cestuis que trust under any deed or instrument may, without serving any other of such cestuis que trust, have a decree for the execution of the trusts of the deed or instrument.

Rule 5th.—In all cases of suits for the protection of property pending litigation, and in all cases in the nature of waste, one person may sue on behalf of himself and of all persons having the same interest.

Rule 6th.—Any executor, administrator, or trustee, may obtain a decree against any one legatee, next of kin, or cestui que trust, for the administration of the estate or the execution of the trusts.

Rule 7th.—In all the above cases the Court, if it shall see fit, may require any other person or persons to be made a party or parties to the suit, and may, if it shall see fit, give the conduct of the suit to such person as it may deem proper, and may make such order in any particular case as it may deem just for placing the defendant on the record on the same footing in regard to costs as other parties having a common interest with him in the matters in question.

Rule 8th.—In all the above cases the persons who, according to the present practice of the Court, would be necessary parties to the suit shall be served with notice of the decree, and after such notice they shall be bound by the proceedings in the same manner as if they had been originally made parties to the suit, and they may, by an order of the Court, have liberty to attend the proceedings under the decree: and any party so served may, within such time as shall in that behalf be prescribed by any general rule or order to be made by the said Courts respectively in that behalf, apply to the Court to add to the decree.

Rule 9th.—In all suits concerning real or personal estate which is vested in trustees under a will, settlement, or otherwise, such trustees shall represent the persons beneficially interested under the trust, in the same manner and to the same extent as the executors or administrators in suits concerning personal estate represent the persons beneficially interested in such personal estate, and in such cases it shall not be necessary to make the persons beneficially interested under the trusts parties to the suit, but the Court may upon consideration of the matter on the hearing, if it shall so think fit, order such persons, or any of them, to be made parties.

XXII. The practice of setting down a cause merely on an objection for want of parties to the suit shall be abolished.

XXIII. If in any suit or other proceeding before any of the said Courts it shall appear to the Court that any deceased person who was interested in the matters in question has no legal personal representative, it shall be lawful for the Court either to proceed in the absence of any person representing the estate of such deceased person, or to appoint some person to represent such estate for all the purposes of the suit or other proceeding, on such notice to such person or persons, if any, as the Court

shall think fit, either specially or generally by public advertisements; and the order so made by the Court, and any orders consequent thereon, shall bind the estate of such deceased person, in the same manner in every respect as if there had been a duly-constituted legal personal representative of such deceased person, and such legal personal representative had been a party to the suit or proceeding, and had duly appeared and submitted his rights and interests to the protection of the Court.

XXIV. It shall be lawful for any person claiming to be a creditor, or a specific pecuniary or residuary legatee, or the next of kin, or some or one of the next of kin of a deceased person, to apply for and obtain as of course without bill or claim filed, or any other preliminary proceedings, a summons from a Judge of any of the said Courts, requiring the executor or administrator, as the case may be, of such deceased person, to attend before him at chambers for the purpose of showing cause why an order for the administration of the personal estate of the deceased should not be granted, and upon proof by affidavit of the due service of such summons, or on the appearance in person, or by his solicitor or counsel, of such executor or administrator, and upon proof by affidavit of such other matters, if any, as such Judge shall require, it shall be lawful for such Judge, if in his discretion he shall think fit so to do, to make the usual order for the administration of the estate of the deceased with such variations, if any, as the circumstances of the case may require, and the order so made shall have the force and effect of a decree to the like effect made on the hearing of a cause or claim between the same parties; provided that such Judge shall have full discretionary power to grant or refuse such order, or to give any special directions touching the carriage or execution of such order, and in the case of applications for any such order by two or more different persons or classes of persons, to grant the same to such one or more of the claimants, or of the classes of claimants, as he may think fit; and if the Judge shall think proper, the carriage of the order may subsequently be given to such party interested, and upon such terms as the Judge may direct.

XXV. A duplicate or copy of such summons shall previously to the service thereof, be filed in the office of the Regis-

trar or other proper officer of the Court, and no service thereof upon any executor or administrator shall be of any validity unless the copy so served shall be countersigned by such Registrar or other officer as an indication of the filing thereof, and the filing of such summons shall have the same effect with respect to *les pendens* as the filing of a bill or claim.

XXVI. It shall be lawful for any person claiming to be a creditor of a deceased person, or interested under his will, to apply for and obtain in a summary way, in the manner hereinbefore provided with respect to the personal estate of a deceased person, an order for the administration of the immoveable estate of such deceased person, if a Hindoo or a Mahomedan, or a Parsee; or for the administration of the real estate of any deceased person, not being a Hindoo, or Mahomedan, or a Parsee where the whole of such real estate is by devisee vested in trustees who are by will empowered to sell such real estate, and authorized to give receipts for the rents and profits thereof, and for the produce of the sale of such real estate; and all the provisions hereinbefore contained with respect to the application for such order, in relation to the personal estate of a deceased person and consequent thereon, shall extend and be applicable to applications for such orders as hereinbefore mentioned with respect to immoveable or real estate.

XXVII. It shall be lawful for the Court, in any suit for the foreclosure of the equity of redemption in any mortgaged property, upon the request of the mortgagee or of any subsequent incumbrancer, or of the mortgager, or any person claiming under them respectively, to direct a sale of such property instead of a foreclosure of such equity of redemption on such terms as the Court may think fit to direct, and if the Court shall so think fit without previously determining the priorities of incumbrances, or giving the usual or any time to redeem; provided that if such request shall be made by any subsequent incumbrancer, or by the mortgager, or by any person claiming under them respectively, the Court shall not direct any such sale without the consent of the mortgagee, or the persons claiming under him, unless the party making such request shall deposit in Court a reasonable sum of money, to be fixed by the Court, for the purpose of securing the performance of such terms as the Court may think fit to impose on the party making such request.

XXVIII. No suit in any of the said Courts shall be dismissed by reason only of the misjoinder of persons as plaintiffs therein, but wherever it shall appear to the Court that notwithstanding the conflict of interest in the co-plaintiffs, or the want of interest in some of the plaintiffs, or the existence of some ground of defence affecting some or one of the plaintiffs, the plaintiffs or some or one of them are or is entitled to relief, the Court shall have power to grant such relief and to modify the decree according to the special circumstances of the case, and for that purpose to direct such amendments, if any as may be necessary, and at the hearing, before such amendments are made to treat any one or more of the plaintiffs as if he or they was or were a defendant or defendants in the suit, and the remaining or other plaintiff or plaintiffs was or were the only plaintiff or plaintiffs on the record; and where there is a misjoinder of plaintiffs and the plaintiff having an interest shall have died leaving a plaintiff on the record without an interest, the Court may, at the hearing of the cause, order the cause to stand revived, as may appear just, and proceed to a decision of the cause if it shall see fit, and to give such directions as to costs or otherwise as may appear just and expedient.

XXIX. No suit in any of the said Courts shall be open to objection on the ground that a merely declaratory decree or order is sought thereby, and it shall be lawful for the Court to make binding declarations of right without granting consequential relief.

XXX. It shall be lawful for the Court to adjudicate on questions arising between parties notwithstanding that they may be some only of the parties interested in the property respecting which the question may have arisen, or that the property in question is comprised with other property in the same settlement, will, or other instrument, without making the other parties interested in the property respecting which the question may have arisen, or interested under the same settlement, will, or other instrument, parties to the suit, and without requiring the whole trusts and purposes of the settlement, will, or other instrument to be executed under the direction of the Court, and without taking the accounts of the trustees or other accounting parties, or ascertaining the particulars or amount of the property touch-

ing which the question or questions may have arisen; provided always, that if the Court shall be of opinion that the application is fraudulent or collusive, or for some other reason ought not to be entertained, it shall have the power to refuse to make the order prayed.

XXXIII. It shall be lawful for the Court in any case where any account is required to be taken, to give such special directions, if any, as it may think fit, with respect to the mode in which the account should be taken or vouched, and such special directions may be given either by the decree or order directing such account, or by any subsequent order or orders, upon its appearing to the Court that the circumstances of the case are such as to require such special directions, and particularly it shall be lawful for the Court, in cases where it shall think fit so to do, to direct that, in taking the account, the books of account in which the accounts required to be taken have been kept, or any of them, shall be taken as *primâ facie* evidence of the truth of the matters therein contained, with liberty to the parties interested to take such objections thereto as they may be advised. [Extended to all sides of the Court by Act II., 1855, s. 55.]

XXXIV. If after a suit shall have been instituted in any of the said Courts in relation to any real estate it shall appear to the Court that it will be necessary or expedient that the said real estate, or any part thereof should be sold for the purposes of such suit, it shall be lawful for the said Court to direct the same to be sold at any time after the institution thereof, and such sale shall be as valid to all intents and purposes as if directed to be made by a decree or decretal order on the hearing of such cause; and any party to the suit in possession of such estate, or in receipt of the rents and profits thereof, shall be compelled to deliver up such possession or receipt to the purchaser or such other person as the Court shall direct.

XXXV. Where any real or immoveable or any personal property shall form the subject of any proceedings in any of the said Courts, and the Court shall be satisfied that the same will be more than sufficient to answer all the claims thereon, which ought to be provided for in such suit, it shall be lawful for the said Court, at any time after the commencement of such proceedings, to allow to the parties interested therein, or any one or

more of them, the whole or part of the annual income of such real or immoveable property, or a part of such personal property, or a part or the whole of the income thereof, up to such time as the said Court shall direct, and for that purpose to make such orders as may appear to the said Court necessary or expedient, and from time to time to alter the same.

XXXVI. Upon application, by motion or petition to any of the said Courts in any suit depending therein, for an injunction or for a receiver, or to dissolve an injunction or discharge an order appointing a receiver, the answer of the defendant shall, for the purpose of evidence on such motion or petition, be regarded merely as an affidavit of the defendant, and affidavits may be received and read in opposition thereto.

XXXVII. In case any of the directions herein contained with respect to the practice and course of proceedings in any of the said Courts shall, by mistake of parties, fail to be followed in any suit or proceeding in any of the said Courts, it shall be lawful for the Court, if it shall think fit upon payment of such costs as such Court shall direct, to make such order giving effect to and rectifying such proceedings as may be justified by the merits of the case.

XXXVIII. In cases where, according to the present practice of the said Courts, they decline to grant equitable relief until the legal title or right of the party or parties seeking such relief shall have been established in a proceeding at law, any of the said Courts, sitting as a Court of Equity, may itself determine such title or right without requiring the parties to proceed at law to establish the same.

XXXIX. It shall be lawful for any of the said Courts in any case in which it shall think fit so to do to refer to a Judge of the Court any matters now usually referred to the Master; and also for any of the said Courts to hear and investigate either in Court or in Chambers any such matters, and to decide any case without a reference either to a Judge or to a Master; and all the powers, authority and jurisdiction given to or vested in the Masters of the said Courts respectively by any Act, law, or practice shall be deemed to have been given to or vested in any of the Judges of the said Courts respectively as well as to or in the said Masters.

XLIII. The Judges of the said Courts respectively may, from time to time, make General Rules and orders for carrying the purposes of this Act into effect, for regulating the times and form and mode of proceeding, in Court and in Chambers, and in the offices of the Masters of the said Courts respectively, for abolishing common injunctions in any case where the practice exists, and generally for regulating the practice of the said Court in respect of the matters to which this Act relates; for fixing and regulating the fees and allowances to all officers of the said Court and solicitors thereof, and, so far as may be found expedient, for altering the course of proceeding hereinbefore prescribed in respect to the matters to which this Act relates or any of them; and such Rules and Orders may, from time to time, be rescinded or altered by the like authority, and all such Rules and Orders shall be subject to be confirmed or disallowed by the Governor General of India in Council, and to be altered or rescinded by Her Majesty, her heirs or successors in Council, in the same manner as the like Rules and Orders would have been, if made by the said Courts respectively, under their general or statutory power of making rules.

XLIV. This Act shall extend to suits and proceedings on the Equity side only of the said Supreme Courts; and in the constructions of this Act the words "Bill of Complaint" shall mean and include "Information," and the word "Affidavit" shall mean and include "Affirmation" in cases where affirmation is allowed.

XLV. This Act shall commence and take effect from and after the 1st day of May, 1854. Provided that it shall be lawful for the Judges of the said Courts respectively to make and issue any such Rules or Orders as aforesaid at any time after the passing of this Act, but the same shall not take effect before the time appointed for the commencement of this Act.

The provisions in this Act relating to the old Equity Procedure were superseded on the establishment of the High Courts with the Code of Civil Procedure (Act VIII., 1859). Accordingly the Sections which have no application beyond mere Equity Procedure are omitted. They are Sections I. to XIII., XXXI., XXXII., XL., XLI., and XLII. The others are retained, as there may be a question whether they have not still some operation as involving substantive Law.

FUGITIVE FOREIGN OFFENDERS.

ACT No. VII. OF 1854.

[*Passed on the 17th February*, 1854.

1. On the requisition of any British or Foreign authority to any authority in British India for the delivery up to justice of any person accused of any heinous offence, Government may order an inquiry into the truth of the charge, &c.

2. Directs what the order for an enquiry shall state.

3. Production of the order shall give jurisdiction to any Magistrate.

4. Empowers Magistrates to issue a warrant for the apprehension of the party charged.

5. Warrants issued under this Act may be executed in any Zillah, being previously endorsed by a Magistrate for execution.

6. A Magistrate who endorses a warrant which has been illegally issued shall not be responsible for the illegality, &c.

7, 8. Directs the proceeding to be taken on apprehension of the offender if offence was committed in British India; and (8) the proceeding if offence was committed out of British India.

9. Directs the course of proceeding when the accused is arrested and taken before a Magistrate.

10. Directs mode of proceeding where the accused has fled after a conviction of the offence with which he is charged.

11. Empowers Magistrate, before whom the accused is brought, to send him to another Zillah.

12. Government may direct that depositions on which the requisition is made, shall be received as evidence of the guilt of the party accused.

13. Directs the Magistrate to report to Government the committal of the accused.

14. Empowers the Government to act as it may think fit on the report aforesaid.

15. Directs the mode of proceeding in case of the person arrested being ordered to be delivered up.

16. Empowers Magistrates to issue the necessary orders and warrants to carry out the orders of Government.

17. Provides for fresh arrest of person who has escaped.

18. Warrants issued in any part of the British Empire for arrest of person accused of heinous offence, may be executed without order of Government on proof of the genuineness of the warrant.

19. Empowers Magistrates in case of certain heinous offence to arrest the accused without any order of Government.

20. Provides for release of persons imprisoned under this Act, if not proceeded against within two calendar months after committal.

21, 22. Defines what offences shall be deemed heinous.

23. Provides for performance of obligation under treaty to deliver up offenders to Foreign Governments when case not within this Act.

24. Repeals Bombay ss. 5, 6, 7, of Reg. II, 1827.

25. Interpretation Clause.

An Act for the apprehension within the Territories under the Government of the East India Company, of persons charged with the Commission of heinous offences beyond the limits of the said Territories, and for delivering them up to Justice, and to provide for the execution of warrants in places out of the Jurisdiction of the authorities issuing them.

Whereas it is expedient to provide for apprehending and delivering up to justice persons whether subjects of the British or of any Foreign Government who shall take refuge or be found in any part of the Territories under the Government of the East India Company and shall be charged with having been guilty of heinous offences in any part of the dominions of Her Majesty or in the Territories of any Foreign Prince or State; to facilitate the execution in any part of the Territories under the Government of the East India Company of warrants issued by competent Officers in any other parts thereof; and to enable the Government of any Presidency or place within such last-mentioned Territories to carry out treaties entered into by or on behalf of Her Majesty, or the East India Company with any Foreign Prince or State, it is enacted as follows:

I. If requisition be made by the authority of the person or persons for the time being, administering the executive Government of any part of the dominions of Her Majesty, to the Government of any part of the British Territories in India to deliver up to Justice any person accused of having been guilty of any heinous offence, in any part of Her Majesty's dominions, subject to the Government making the requisition, and who shall be or shall be supposed to be, in any part of the British Territories in India, subject to the Government to which the requisition shall be made, or if a similar requisition be made by any Foreign Prince or State, or by any duly authorized Minister or Officer thereof, in respect of a person accused of having been guilty of any heinous offence in any part of the Territories of such Foreign Prince or State, it shall be lawful for the Government to which the requisition shall be made, if it shall see fit so to do, to issue an

order in writing for inquiry into the truth of the charge; and such order shall be sufficient proof of the requisition having been duly made, and a sufficient justification for all acts done in pursuance thereof.

II. The order shall be signed by one of the Secretaries to the Government, it shall be directed to all Magistrates and Justices of the Peace of the Presidency or place under the control of such Government, it shall signify that the requisition has been made, shall state the nature of the offence charged, the name or other designation, if the name be not known of the person accused, and any other description of him that may be thought necessary, and it shall require the Magistrates and Justices to whom it shall be directed, or any of them, to inquire into the truth of the charge, and to proceed in pursuance of this Act.

III. Upon the production of the order to any such Magistrate or Justice of the Peace, he shall have the same powers as if the offence charged had been committed within his jurisdiction.

IV. If the evidence adduced shall, in the judgment of the Magistrate or Justice of the Peace, be sufficient to justify the apprehension of the person accused for the offence, the Magistrate or Justice of the Peace shall issue his warrant for the apprehension of such person. The warrant shall be issued in the same manner as a warrant for an offence committed within the jurisdiction of the Magistrate or Justice of the Peace issuing it, and shall contain a memorandum stating that the warrant is issued under this Act, and if the warrant be issued under an order of Government, shall also state the fact and specify the Government. The memorandum may be to the following effect:

This warrant is issued under Act No. VII. of 1854, and is issued under an order of the Government of

V. The warrant of any Magistrate or Justice of the Peace having jurisdiction in any part of the Territories under the Government of the East India Company for the arrest of any person charged with having committed any offence, whether such warrant be issued under the provisions of this Act or not, may be executed within the jurisdiction of any other Magistrate or Justice of the Peace having jurisdiction in any part of the said Territories, whether in the same Presidency or not, upon having a written authority under the hand and seal of the Magistrate or

Justice of the Peace, within whose jurisdiction it may be executed, previously endorsed thereon, and which endorsement may be to the following effect:—

To the Nazir [or other Officer as the case may be] of the Zillah of

"This warrant may be executed in the zillah or district of "[describing the zillah or district of the indorsing Magistrate or Justice of the Peace] by any of the Officers to whom the same is directed or by [describing by his name of Office the Officer, to whom a similar warrant, issued by the indorsing Magistrate of Justice of the Peace, would be directed.]

VI. The Magistrate indorsing a warrant in pursuance of the Provisions of Section V. of this Act, shall not be liable to any action or other proceeding in consequence of any illegality in the issuing of the warrant; but any Magistrate illegally or improperly issuing the same, shall be liable for an arrest in pursuance of the indorsement in the same manner and to the same extent only as if the warrant had been executed within its own jurisdiction.

VII. Upon the apprehension of the supposed offender, if the offence be alleged to have been committed in any part of the Territories under the Government of the East India Company, he shall be carried before the Magistrate within whose jurisdiction the offence shall be alleged to have been committed, and shall be by him dealt with according to law, unless by the warrant the Officer be authorized to take bail or security, and such bail or security be given for the appearance of the person accused before the Magistrate or Justice of the Peace of the zillah or district in which the offence shall be alleged to have been committed. If the offence be charged to have been committed in any place not within the Territories under the Government of the East India Company, the person arrested shall be forthwith carried before a Magistrate or Justice of the Peace, of the zillah or district in which he shall be arrested. The Magistrate or Justice of the Peace before whom the supposed offender shall be carried in pursuance of the last-mentioned directions, may proceed in the same manner as in cases in which he has power to commit for trial, or to hold to bail for an offence committed within his own

jurisdiction. If after making as full an enquiry into all the circumstances of the case as the evidence obtainable by the Magistrate or Justice of the Peace within the Territories under the Government of the East India Company will enable him to make the evidence adduced shall be sufficient in his judgment to warrant a committal, he shall commit the accused to some place of confinement within his zillah or district, which, in the judgment of the Magistrate or Justice of the Peace, shall be fit for receiving the prisoner, or if there be no such place, to the gaol of the Presidency, there to remain until he shall be delivered up or discharged by orders of Government; if after making such inquiry the circumstances shall not in the judgment of the Magistrate or Justice of the Peace be sufficient to warrant either the committal or the holding to bail of the prisoner, he shall be discharged.

VIII. If the offence charged be one committed out of the British Territories in India, which, if committed within the jurisdiction of the Magistrate, would be bailable, the Magistrate or Justice of the Peace may proceed accordingly and may discharge the prisoner upon his giving the necessary bail. The recognizance or bail-bond in such case shall be for the appearance of the accused before the Magistrate or Justice of the Peace for the time being of the zillah or district in which the recognizance shall be taken on a certain day to be named therein, allowing reasonable time for receiving the orders of Government, and on such subsequent days as the Magistrate or Justice of the Peace for the time being shall from time to time appoint.

IX. If any person shall in pursuance of this Act be carried before a Magistrate or Justice of the Peace other than the one who issued the warrant, or a Magistrate or Justice of the Peace for the time being of the same zillah or district, the depositions and documents upon which the warrant was issued, or copies thereof, to be certified under the hand and seal of the Magistrate or Justice of the Peace of the zillah or district in which the warrant was issued, shall, upon the requisition of the Magistrate or Justice of the Peace before whom such person shall be carried, be forwarded to such Magistrate or Justice of the Peace; and if the warrant be issued under an order of Government, and executed in a Presidency or place not under the Government

issuing the order, notice of the arrest shall be forthwith communicated to such Government, who shall forward the requisition, and any documents relating thereto in their possession to the Government having jurisdiction over the place of arrest, and such last-mentioned Government shall have the same powers as the Government who made the order.

X. If the person accused of the offence mentioned in any such order of Government be proved to have been convicted and sentenced for the offence charged by a Court of Justice in any part of Her Majesty's dominions in which the offence is alleged to have been committed, and to have escaped before such sentence was carried into execution, the Magistrate or Justice of the Peace, upon proof of such conviction and sentence, may issue a warrant for the apprehension of the person accused, and he may be arrested and committed in manner aforesaid without further proof, unless such person shall prove that the conviction or sentence has been reversed or annulled.

XI. If it appear to the Magistrate or Justice of the Peace, before whom any prisoner shall be carried under this Act for an offence alleged to have been committed in any Territories not under the Government of the East India Company, that particular circumstances exist which render it advisable that the case should be investigated by the Magistrate or Justice of the Peace of a Zillah or district nearer to such Territories, he shall forthwith report the case and the particular circumstances to the Government, who shall either order such Magistrate or Justice of the Peace to proceed with the case himself, or to send the case to be investigated by the Magistrate or Justice of the Peace of any other district to be named by the Government. In the latter case the prisoner shall be sent, or if the offence be bailable shall give bail to appear before such last-mentioned Magistrate or Justice of the Peace, who shall have power to deal with the case as if he had issued the warrant under which the prisoner shall be arrested, and all the depositions and documents shall be forwarded to such Magistrate or Justice of the Peace. The order of Government shall be a sufficient justification for all persons acting in pursuance thereof.

XII. The Government by whom any order under Section I. of this Act shall be made, may, if they think fit so to do, direct

that copies of any depositions or exhibits which shall have been laid before them, and shall have been certified to their satisfaction to be true copies of depositions or exhibits made or produced before a competent judicial Officer of the Territories in which the offence is alleged to have been committed, may be received in evidence of the criminality of the person accused, and such direction shall be sufficient authority for receiving the same in evidence.

XIII. The Magistrate or Justice of the Peace, after committing the accused or holding him to bail as aforesaid, for any offence committed out of the Territories under the Government of the East India Company, shall forthwith report the result of his proceedings to the Government to which he is subordinate, together with any remarks which he may deem necessary or proper to make upon the whole case. He shall also forward with such report a copy of all depositions and documents used before him.

XIV. Upon receipt of the report, and after examining the case, the Government may, by order in writing to be signed by the Secretary to the Government, order the accused either to be discharged, or to be held to bail to appear in such Court or place and at such time or times as the Government may think fit, or to be delivered up to some person authorized by the Government or Officer making the requisition, to receive and take charge of him. In cases falling within the provisions of Act I. of 1849, the Government may order the person accused to be tried under that Act.

XV. If ordered to be delivered up, the person to whom the accused shall be ordered to be delivered shall not have the custody or charge of him so long as he shall remain in any part of the territories under the Government of the East India Company, but the accused shall be conveyed in Custody through such last-mentioned territories towards the territories in which the offence shall be alleged to have been committed, in the same manner as a prisoner sent from the station of one district to that of another, and as soon as he shall have been conveyed to the frontiers of the terrtiories under the Government of the East India Company, he shall be delivered over to some person authorised by the Government making the requisition to receive

and take charge of him. If no such person shall attend to receive the prisoner, the latter shall be taken before the nearest Magistrate, who may order him to be discharged out of custody, and may provide him with such means of returning to the place where he was apprehended, or so near thereto as he may desire, as such Magistrate may think necessary and suitable to his station in life.

XVI. Any Magistrate or Justice of the Peace acting under the provisions of this Act, shall issue all necessary warrants, orders and directions for carrying this Act and also any order made under it by the Government, into effect, under his signature and seal, or seal of office, if he shall have a seal of office, and all Magistrates and Officers acting in pursuance of this Act, shall have and exercise the same powers as if the offence charged had been committed within the zillah or district subject to their jurisdiction, and in cases where the accused may have been held to bail, the Magistrate may order the bail-bond to be renewed in such form as may be necessary to carry any order of Government into effect, and if such bail-bond shall not be renewed accordingly, may commit the person accused to prison for such period as may be necessary to carry such order into effect.

XVII. In case any person arrested under this Act shall escape out of custody, he may be re-taken in any part of the territories under the Government of the East India Company, in the same manner as if he had escaped from custody under process for an offence committed in that part of such territories, in which he shall be found.

XVIII. If a warrant be issued in any part of Her Majesty's dominions not under the Government of the East India Company, for the arrest of any person for any heinous offence alleged to have been committed therein, or for the arrest of any person for any heinous offence of which he may have been convicted by a Court of competent jurisdiction, in any such part of Her Majesty's dominions, any Magistrate or Justice of the Peace within the territories under the Government of the East India Company, may, upon the production of such warrant and proof of the signature of the Officer signing it, and of his authority to issue the same, and without any further proof and without any order of Government, issue his warrant for the apprehension of

the person accused, and after his apprehension may proceed to commit, or hold him to bail in manner aforesaid, and to take such other proceedings as aforesaid as the case may require, but the person accused shall not be delivered over as aforesaid without an order of Government. The Government in such case shall have the same power as if the proceedings had been taken in pursuance of an order of Government issued under this Act.

XIX. In cases in which the immediate apprehension within the British territories in India of any person accused of having committed any heinous offence mentioned in Section XXI. of this Act out of such territories shall, in the judgment of a Magistrate or Justice of the Peace having jurisdiction in any part of such territories in which the person accused shall be found, be necessary for the ends of justice, the person accused may without an order of Government be apprehended or proceeded against in the same manner as for an offence charged to have been committed in the place where the person accused shall be found, and after his apprehension he may be committed or held to bail in manner aforesaid, and such other proceedings as aforesaid may be taken as the case may require, but the person accused shall not be delivered up without an order of Government. The Government in such case shall have the same powers as if the proceedings had been taken in pursuance of an order of Government issued under this Act.

XX. If any person imprisoned under this Act shall not either be delivered up or discharged or brought to trial within two calendar months after his committal, it shall be lawful for the principal court of original jurisdiction in criminal cases in the district in which he shall be imprisoned, upon application by or on behalf of the prisoner, to order him to be discharged out of custody, either upon giving such bail as the Court may order, or without bail, unless sufficient cause shall be shown to the Court why such discharge ought not to be ordered. Provided that no such order shall be made until after notice of the application or of the intention to make the same, shall have been given to Government or to the Secretary or one of the Secretaries thereof.

XXI. The words "heinous offence" in this Act shall be deemed to include treason against Her Majesty committed in any part of Her Majesty's dominions; murder, attempting to murder,

rape, great personal violence, maiming, Dacoity, Thuggee, robbery, burglary, knowingly receiving property obtained by Dacoity, robbery, or burglary, cattle-stealing, breaking and entering a dwelling-house and stealing therein, arson, setting fire to a village, house, or town, forgery or uttering forged documents, counterfeiting current coin, knowingly uttering base or counterfeit coin, perjury, subornation of perjury, embezzlement whether by public officers or other persons, and being an accessory to any of the above-mentioned offences.

XXII. The said words "heinous offence" in this Act shall also be deemed to include any offence, for which by any treaty in force between Her Majesty or the East India Company, and any Foreign Prince or State, Her Majesty or the East India Company, shall, at the time of making any requisition as aforesaid, be bound to deliver up offenders to the foreign Prince or State making the same, and any other offence which in the judgment of the Government to whom the requisition shall be made, shall be serious or aggravated, and for which the person accused cannot be tried within the Territories under the Government of the East India Company under the provisions of Act No. I. 1849.

XXIII. If by any such treaty, Her Majesty or the East India Company shall be bound to deliver up to any Foreign Prince or State, any person liable to be proceeded against by the laws of such Foreign Prince or State, in any case not expressly provided for by this Act, or in any manner other than that provided by this Act, it shall be lawful for the Government of any part of the Territories under the Government of the East India Company, in which such person may be found, upon requisition made by or on the part of such Foreign Prince or State, to adopt such proceedings for carrying such treaty into effect, and for the surrender of such person, and for making any preliminary inquiry into the charge contained in the requisition, as it shall think fit, and any such order of the Government in writing under the hand of one of the Secretaries of such Government, shall be a sufficient authority and justification for all acts to be done in execution thereof.

XXIV. Sections V., VI. and VII., Regulation XI. of 1827, of the Bombay Code, are repealed.

XXV. Unless where a contrary intention appears from the context, the word "Government," as used in this Act, shall be deemed to mean and include the Governor General of India in Council or the person or persons administering the executive Government, in any Presidency or place within the British Territories in India. The words "British Territories in India" shall include any part of the Territories under the Government of the East India Company. The word "Magistrate," as used in this Act, is intended to include a Joint Magistrate, or any person lawfully exercising the powers of a Magistrate, and also a Justice of the Peace. Words in the singular number are intended to include the plural, and words in the masculine gender to include the feminine.

Extended by Act XVII., 1856, section 3; repealed by Act XVII, 1862, so far as relates to warrants issued otherwise than under the said Act, that is, warrants issued otherwise than under Act VII., 1854.

ADMINISTRATION CERTIFICATES.

Act No. VIII. of 1854.

[*Passed on the 17th February*, 1854.

1. Declares what shall be the effect of Certificates granted under Act 21, 1841.

2. Regulates form of Certificate to enable holder to negotiate Government note, &c.

3, 4 Empowers Judge, &c, to amend the form of Certificate; on (4) security being given.

An Act to explain and amend Act X. of 1851, and Act XX. of 1841.

Whereas doubts exist as to the limits within which certificates of administration to personal estates granted in pursuance of Section IV., Act X. of 1851, by the British representative accredited to a foreign State or by the British Officer holding the highest executive authority in a district to which Act XX. of 1841 does not extend are operative, and it is expedient to remove such doubts and also to amend the provisions of the said Acts, it is enacted as follows:

I. Every such certificate of administration as aforesaid, which shall hereafter be granted, shall, as regards the public securities of the East India Company, give authority to the person to whom the same shall be granted throughout the Territories in the possession and under the Government of the East India Company, and have the same effect throughout the said territories as a certificate granted under the provisions of Act XX. of 1841, as amended by Act X. of 1851, has within the Presidency within which the same is granted.

II. No certificate granted under the provisions of Act XX. of 1841, as amended by Act X. of 1851, or under the provisions of Act X. of 1851, shall empower the person certified to negotiate any Government note or share of a Bank or any share of such security, or to receive any interest or dividend due thereon, or any share of such interest or dividend, unless the Government note or Bank share shall be specified in such certificate.

III. Any Judge, British representative or other British Officer authorized to grant a certificate may from time to time extend the same to any Government note or Bank share not originally specified therein, and every such extension shall have the same effect as if the Government note or Bank share to which the certificate shall be extended had been originally specified therein.

IV. Upon the extension of a certificate, security may be required in the same manner as upon the original grant of a certificate.

Repealed by Act XXVII., 1860.

CIVIL APPEALS.—ERRORS.

Act No. IX. of 1854.

[*Passed on the 17th February*, 1854.

No order, &c., of Civil Court to be reversed, &c., on account of error, &c., not productive of injury to party.

An Act relating to Appeals in the Civil Courts of the East India Company.

Whereas every case in appeal ought to be determined upon the merits without regard to technical errors or defects; it is enacted as follows:

No order or decision of any of the Civil Courts of the East India Company shall be reversed, altered or remanded on account of any error, defect or irregularity not productive of injury to either party.

Repealed by Act X., 1861, as respects proceedings under Act VIII., 1859.

BENGAL.—ASSISTANT AND DEPUTY MAGISTRATES.

ACT NO. X. OF 1854.

[*Passed on the 24th February*, 1854.

1. Empowers Assistants and Deputy Magistrates to receive and try cases without previous sanction of the Magistrate.

2. Gives Deputy Magistrates same powers as by Act 27, 1845. Assistants have to try cases under Act 4, 1840.

3. Empowers Magistrates to remove cases from Deputies and Assistants.

An Act for regulating the powers of Assistants to Magistrates, and of Deputy Magistrates appointed under Act XV. of 1843.

Whereas Assistants to Magistrates and also Deputy Magistrates appointed under Act XV. of 1843, to exercise the powers of a Covenanted Assistant, under Regulation XIII. of 1797, IX. of 1807, or III. of 1821, are not competent to decide any cases but such as are referred to them by the Magistrate, and whereas this restriction is attended with practical inconvenience to complainants in petty criminal cases, it is enacted as follows:

I. It shall be competent to the local Government of each of the divisions of the Bengal Presidency, to empower Assistants to Magistrates and also Deputy Magistrates appointed as aforesaid to receive and try, without reference by the Magistrate, all or any of such charges as they are now competent to try upon reference by the Magistrate, [subject to appeal from their decisions, according to the provisions of Section II., Act XXXI. of 1841.] The part within the brackets repealed by Act XVII., 1862.

II., III. Repealed by Act XVII., 1862.

COPPER COINAGE.

ACT No. XI. OF 1854.

[*Passed on the 24th February*, 1854.

1. Repeals part of s. 1 of Act 21, 1835, and of s. 1 of Act 22, 1844.

2, 3. Half Pice may be issued from any mint, and (3) shall be of weight specified.

An Act to amend Act No. XXI. of 1835, and Act No. XXII. of 1844, and to authorise the issue of Half Pice

Whereas it has been deemed expedient, with reference to the convenience of the public, that Copper Coins to be called Half Pice should be issued, it is enacted as follows:

I. So much of Section I., Act No. XXI. of 1835, as enacts that the Copper Coin therein mentioned only shall be issued from any mint in the Presidency of Bengal, and so much of Section I. Act No. XXII. of 1844, as enacts that the Copper Coins therein mentioned only shall be issued from any mint within the Territories of the East India Company, are repealed.

II. After the passing of this Act, Copper Coins to be called Half Pice may be issued from any of the mints in the Territories under the Government of the East India Company.

III. A Half Pice shall weigh fifty grains troy, and shall be a legal tender in any part of the said Territories for $\frac{1}{128}$ part of the Company's Rupee, but shall not be a legal tender except for fractions of a Rupee.

Repealed by Act XIII., 1862.

MADRAS.—DISTRICT MOONSIFFS.

ACT No. XII. OF 1854.

[*Passed on the 10th March*, 1854.

1. Empowers the G. in C. to confer on District Moonsiffs criminal jurisdiction in petty cases.

2, 3. Existing rules relating to District Police, and (3) Prisoners to remain in force.

4. Existing rules of procedure to apply to D. M. Courts.

5. District Moonsiffs to note down the complaint, defence and oral evidence in writing.

6. Extends powers of Sessions Judges to proceedings under this Act.

7. Empowers G. in C. to suspend certain Regulations when powers under this Act are conferred on D. Moonsiffs.

An Act for conferring Criminal Jurisdiction upon District Moonsiffs in the Presidency of Madras.

Repealed by Act XVII., 1862.

HORSBURGH LIGHT HOUSE.

Act No. XIII. of 1854.

[*Passed on the 7th April*, 1854.

1. Repeals Act 6, 1854.

2, 3. Horsburgh Light House to remain the property of the E. I. C., and (3) that and the floating lights to be called the "Straits' Lights."

4. Ships of 50 tons and upwards to pay tolls as specified.

5. Ships to pay tolls on return voyages.

6. Ships of War, British and Foreign and E. I. Co.'s Ships to be exempt from toll.

7. Straits' traders to be liable to only half toll.

8, 9. Vests the management of the "Straits' Lights" in the Governor of the Settlements, (9) who may appoint collector of tolls.

10. Directs how tolls collected shall be applied.

11, 12. Tolls to be paid before port clearance granted (12) to proper officer, who shall give receipt for same.

13, 14. Port clearance not to be granted till tolls are paid, and ship and goods may be distrained and sold for tolls, and (14) the Collector may sue for recovery of tolls.

15. Collector may require production of ship's register to ascertain burden of ship, and may cause ship to be measured, &c.

16. Empowers collector of tolls to make enquiry on what voyage any ship is bound, &c.

17. Gives Magistrate jurisdiction to decide disputes respecting tolls under this Act.

18. Empowers the G. G. in C. to alter rates of tolls.

19. Interpretation Clause.

An Act to repeal Act No. VI. of 1852, and to make provision for defraying the cost of the Light House, on Pedra Branca, and for maintaining the same, and also a Floating Light established in the Straits of Malacca, to the West of Singapore, and for the establishment and maintenance of such further Lights in or near to the said Straits as may be deemed expedient.

Whereas it was deemed desirable, for the safety and guidance of Ships navigating the China Seas, to build a Light House on

the Island Rock called Pedra Branca, situate at the Eastern entrance of the Straits of Singapore; and whereas certain sums of money were subscribed by private individuals for that purpose, but the same were insufficient to defray the expense of building such Light House; and whereas the East India Company agreed to build such Light House, and to advance certain sums of money to complete the same, on condition that the said sums of money should be repaid to them by the levy of certain tolls; and whereas, since the passing of Act No. VI., 1852, a Floating Light has been established by the East India Company in the Straits of Malacca to the West of Singapore, at a place called the 2½-fathom bank, and it may hereafter be deemed expedient to establish and maintain other lights or beacons in or near to the said Straits, for the safety and guidance of Ships navigating the same; and whereas many Ships which derive the benefit of the Horsburgh Light and the said Floating Light established aforesaid, do not contribute to the expense thereof, and it is just and reasonable that they should be liable so to do, it is enacted as follows:

I. Act No. VI., 1852, is hereby repealed, except so far as it relates to any Act already done under the same, or to any toll now due under the provisions thereof, or to any proceedings already adopted, or hereafter to be adopted, for the recovery of any such toll.

II. The Light House on Pedra Branca aforesaid shall continue to be called "The Horsburgh Light House," and the said Light House, and the appurtenances thereunto belonging or occupied for the purposes thereof, and all the fixtures, apparatus and furniture belonging thereto, shall remain the property of, and be absolutely vested in, the East India Company and their successors.

III. The light maintained at the Horsburgh Light House, and the said Floating Light established as aforesaid, and such other light or lights as shall be established by the East India Company in lieu of such Floating Light, or in addition thereto, in or near to the Straits of Malacca or Singapore, shall be called "The Straits' Lights."

IV. If, after the passing of this Act, any Ship, of the burden of fifty tons or upwards, shall depart from, or enter any port,

harbour or roadstead in the possession or under the Government of the East India Company, upon, or during, or at the termination of any voyage, in the ordinary course of which she would pass any of the said lights, a toll shall be paid in respect of such Ship, except in the cases hereinafter mentioned at the rates following, that is to say:

1. If the voyage be one in the ordinary course whereof such Ship would pass the whole of the said lights, at the rate of one anna for every ton of her burden.

2. If the voyage be one in the ordinary course of which she would pass any one or more of the said lights, but not all of them, at the rate of half an anna for every ton of her burden. Provided that such toll shall not be payable at any such port or place, if such toll shall have been paid at the same or any other port or place under the Government of the East India Company in respect of the same voyage, and a proper voucher for such payment shall be produced, or other satisfactory proof of such payment given. Provided also that no toll shall be payable under this Act on account of any Ship in respect of any voyage for which toll hath been already paid or become payable under the said Act No. VI., 1852, or during the period covered by such payment.

V. The return of a Ship from any port or place shall be deemed a distinct voyage within the meaning of this Act notwithstanding toll shall have been paid in respect of her voyage to such port or place, and notwithstanding the terms of any Charter-party.

VI. All Ships of war, belonging to Her Majesty, or to any Foreign Government or State, and all Ships belonging to the East India Company shall be exempt from the payment of such toll.

VII. And whereas there are certain Vessels of small burden, called Straits' traders, which are engaged in the trade carried on between different ports and places, within or near to the said Straits, and it is just and reasonable, that such Vessels should not be charged full toll in respect of any voyage in the course of such trade: It is therefore enacted, that in respect of any voyage which shall be made by any such Vessel in the course of such trade, toll shall be paid at only one-half of the rate at which it shall be payable in other cases under this Act.

VIII. The management and control of the said "Horsburgh Light House," and of the said Straits' Lights, are hereby vested in the Governor of the Straits' Settlements.

IX. The said Governor may appoint any person he may think fit, to be a collector of the tolls payable under this Act, at any port, harbour, or place under his Government.

X. The Funds raised by the tolls payable under this Act shall be applicable in the first place to defray the necessary expenses of maintaining and keeping up the said Light-House and the said Straits' Lights, and the establishment and maintenance of such other lights as aforesaid, as the Governor General of India in Council may think fit to establish and maintain, and all necessary expenses incidental thereto, and the surplus thereof shall from time to time, be applied in liquidation of the moneys advanced by the East India Company towards the erection and completion of the said Light House, and the apparatus and furniture thereof.

XI. The toll to be levied under this Act shall become due and be payable in respect of any Ship clearing out or departing from any port, harbour or roadstead, in the possession or under the Government of the East India Company, upon any such voyage as aforesaid, previously to the granting of any Port Clearance for such Ship, or in the event of her not requiring a Port Clearance, on her preparing to leave such port, harbour or roadstead on such voyage; and in respect of any Ship entering any such port, harbour or roadstead as aforesaid, upon or during, or at the termination of any such voyage from any port or place not under the Government of the East India Company, the toll shall be payable immediately upon her entering such port, harbour or roadstead.

XII. The Collector or other Chief Officer of Customs at any port, harbour or place in the possession, or under the Government of the East India Company, or any other Officer, whom the Government to which such port, harbour or place is subordinate, may appoint to receive the tolls above-mentioned, shall collect the same by himself, or by any Officer in his establishment whom he shall appoint. The Officer to whom any such toll shall be paid, shall grant to the person paying the same a proper voucher in writing, under his hand, describing the name of his office, and the port or place at which such payment shall be made, the

name, tonnage, and other proper description of the Ship, and the voyage in respect of which such toll shall be paid.

XIII. The Officer of Government, whose duty it shall be to grant a Port Clearance for any Ship clearing out of, or leaving any such port, harbour or place under the Government of the East India Company, shall not grant such Port Clearance to any Ship until the Owner or Agent of such Ship, or the Master or other person in command thereof, shall pay all tolls to which such Ship shall be liable under this Act, or produce a proper voucher for, or give satisfactory proof of the payment of such tolls at the same or some other port or place. If any Master or Owner, or other person having the charge of any Ship liable to the payment of any tolls under this Act, shall refuse or neglect to pay the amount thereof to the person authorized to collect, or receive the same, such person may distrain or cause to be distrained, any goods, or merchandize, to whomsoever the same may belong, on board such Ship, and any tackle, apparel or furniture belonging to such Ship, and may remove the same, or cause the same to be removed, to some convenient place, leaving on board such Ship notice, in writing, of such distress and of the cause thereof, and of the place of removal, if such tolls, together with the costs of such distress and removal, shall not be paid within three whole days after the seizure, exclusive of the day of such seizure, the person authorized to collect or receive such tolls may cause the goods, merchandize, tackle, apparel and furniture so seized, to be sold, and out of the proceeds of such sale shall pay the amount of the tolls to which such Ship may be liable under this Act, together with the reasonable costs of such seizure, detention and sale, rendering to the Master or Owner, or other person having the command of such Vessel, the over-plus, if any, on demand.

XIV. Notwithstanding any thing in this Act contained, the person authorized to collect the said tolls at any such port, harbour or place aforesaid, may in his own name, sue for and recover, on behalf of the East India Company, the amount of any tolls payable to him under this Act, by action in any of the Civil Courts of Her Majesty or of the East India Company against the Owner or Master, or other person, who at the time of such toll becoming due, shall have the command of any Ship liable thereto.

XV. In order to ascertain the burden of any Ship liable to pay toll under this Act, the person authorized to collect such toll may require the Owner, Master or other person in command of such Ship, or any person having possession of the same, to produce the register of such Ship for the inspection of such person, if the ship shall be a British registered Ship or a Ship registered in any part of the territories of the East India Company, and upon the refusal or neglect of any such Owner, Master or other person to produce such register, or if such Ship shall not be a Ship registered as aforesaid upon the refusal or neglect of such Owner or Master to satisfy the person authorized to collect such toll, as to what is the true burden of the Ship, it shall be lawful for such person to cause such Ship to be measured at the expense of the Master thereof, and such expense shall be receivable in the same manner as tolls payable under this Act, or it shall be lawful for such person to deliver to such Master, Owner or other person in command of the Ship, or in the possession thereof, or to leave for him on board such Ship a notice in writing, specifying what, in his judgment, is the burden of the Ship, and the burden specified in such notice shall be deemed to be the real burden of the Ship, and be treated as such for all the purposes of this Act, until the Owner, Master or other person having the command of the Ship shall give sufficient proof of the true burden thereof.

XVI. The Master of any Ship which shall depart from or enter any such port, harbour or roadstead as aforesaid, upon, or in the course of, or at the termination of any voyage, shall, upon demand by any person authorized to collect or receive tolls under this Act, specify upon what voyage he is bound, and if any Master of any such Ship shall refuse or neglect so to do, or shall give a false statement, or shall endeavour to evade the payment of any tolls payable under this Act, or shall obstruct any Officer of Government in the discharge of this duty under this Act, he shall be punishable by a Magistrate in a summary manner by a fine not exceeding Two hundred Rupees.

XVII. If any dispute shall arise respecting the liability of any Ship to the payment of toll under this Act, or in respect to the burden of any Ship, or the amount of toll payable, or the amount of any charges on account of any distress, removal or

sale under this Act, such dispute shall be heard and determined by a Magistrate in a summary manner, and the decision of such Magistrate shall be final.

XVIII. The Governor General of India in Council may, from time to time, as he may think fit, reduce the tolls payable under this Act, in respect of all vessels or of any particular class or classes of vessels, and again raise the same to any amount not exceeding the amounts above specified.

XIX. The word "Ship" throughout this Act shall be held to mean and include a Schooner, Cutter, Brig, Brigantine, Barque, Steam-vessel and any square-rigged Vessel. The word "Master" shall mean any person having the Command of a Ship. The word "Magistrate" shall be deemed to include a Joint Magistrate, and any person lawfully exercising the powers of Magistrate, and Justice of the Peace.

ASSAM COMPANY.

Act No. XIV. of 1854.

[*Passed on the* 15*th April*, 1854.

Continuing Act 19, 1845, till 30th April, 1855.

An Act to continue the operation of Act No. XIX. of 1845, until the 30th day of April, 1855.

Repealed by Act IV., 1855.

BORNEO COMMISSION.—SIR JAMES BROOKE.

Act No. XV. of 1854.

[*Received assent of G. G. on the* 21*st July*, 1854.

Recites a Commission and expediency of vesting Commissioners with powers—

1. Prescribes oath to be taken by Commissioners.
2. Empowers them to summon witnesses with papers.
3. In order to procure discovery, provides for indemnification of witnesses.

4, 5, 6. Empowers Commissioners to examine witnesses on oath, &c., and (5) on default of witness to appear, or refusal to answer, to punish witness, and (6) makes the giving of false evidence perjury.

7. Limits right of action against Commissioners to six calendar months after Act done.

8. In case of death of one Commissioner, survivor may execute Commission.

An Act to facilitate the proceedings of the Commissioners appointed to inquire into certain matters connected with the position of Sir James Brooke, Her Majesty's Commissioner and Consul General in Borneo.

Obsolete.

BENGAL AND N. W. PROVINCES.—POLICE.

ACT No. XVI. OF 1854.

[*Passed on the 28th July*, 1854.

1. Repeals ss. 3 and 7 of B. R. 11, 1831.
2. Places Darogahs in subordination to Tehseeldar in certain cases.
3. Extends B. R. 11, 1831, as amended to N. W. Provinces.

An Act to amend Regulation XI. of 1831 of the Bengal Code.

Whereas the provisions of Section III. and Section VII. of Regulation XI., 1831, have been found inconvenient, and whereas it is expedient that Regulation XI., 1831, as amended by this Act, should be extended to the whole of the Provinces of Benares, it is enacted as follows:

Sections 3 and 7, Regulation XI., 1831, repealed.

I. Sections III. and VII., Regulation XI., 1831, of the Bengal Code, are hereby repealed.

Darogahs of Police to be subject to Tehseeldars.

II. Wherever any Tehseeldar shall have Police jurisdiction under the provisions of Section II. of the said Regulation XI., 1831, every Darogah of Police hereafter appointed within the local limits of the Police jurisdiction of such Tehseeldar, shall be subordinate to and subject to the control of such Tehseeldar, in his capacity of Chief Police Thannadar.

Regulation XI., 1831, as amended, extended to Benares.

III. Regulation XI., 1831, as amended by this Act, shall extend to the whole of the province of Benares, and all powers vested by the said Regulation in the Governor General in Council, may be exercised by the Lieutenant-Governor of the North-Western Provinces.

POST OFFICE.

ACT No. XVII. OF 1854.

[*Passed on the 12th August*, 1854.

1. Repeals Act 17, 1837; 20, 1838; 17, 1839.

2. Establishes exclusive privilege of conveying letters by post, &c., except (1) letters sent by friend, &c.; (2) letters sent by a messenger on purpose; (3) letters sent with goods.

3. Prohibits certain descriptions of persons from carrying letters, viz., (1) Common carriers; (2) Ship-masters, &c.

4. Prescribes the penalties for carrying or sending letters, &c., in prohibited ways.

5. Empowers the G. G. in C. to appoint, or to authorise the local Governments to appoint, such officers as G. G. in C. may deem expedient.

6. Prescribes the postage rates on letters and defines what shall be deemed letters.

7. Prescribes postage rates (1) on imported newspapers, pamphlets and other printed or engraved papers, &c., and (2) on the same not imported.

8, 9. Prescribes conditions to be observed in posting newspapers, &c., and if conditions are not observed, (9) letter postage rates to be paid.

10. Proof Sheets to be subject to same rates as newspapers.

11. Prescribes inland banghy postage rates, by weight and distance.

12. Prescribes banghy rates for Books, pamphlets, packets of newspapers and other printed and engraved papers, not exceeding 130 tolas.

13. How distance shall be calculated.

14, 15. Letters exceeding 12 tolas' weight to go not by letter post, but banghy post; or (15) if no banghy post, by letter post, but not exceeding 40 tolas, except under special direction of Post Master.

16. Prohibits sending letters under 12 tolas by banghy.

17. Prescribes rates of postage on Ship-letters by E. I. Co.'s post.

18. Limits weight and dimensions of banghy parcels to 600 tolas and 2,592 cubic inches.

19. Postage must be prepaid to places to which the E. I. C. have not established a post.

20. Prescribes double postage on letters not prepaid. Prepayments to be by stamps.

21. Empowers G. G. in C. to prescribe prepayment in all cases.

22. Letters, &c., insufficiently stamped to be charged on delivery double in respect of the deficiency.

23. Re-directed letters to be subject to ordinary postage rate, which need not be prepaid.

24. Prohibits sending explosive or dangerous materials by post.

25 Empowers G. G. in C. to lower postage rates.

26 Letters not to be recalled; except as G. G. in C. may direct; newspapers &c., may be recalled.

27. British postage rates recoverable like inland postage.

28, 29, 30. Prepayment to be by postage stamps, which (29) shall be provided by the G. G. in C., (30) such stamps to be under management of Post office.

31, 32, 33, 34. G. G. in C. to make rules for supplying the public with stamps, and (32) vendors to be subject to such rules, and (33) to be subject to penalties for refusing to supply stamps, and (34) also for overcharge for stamps.

35. Provides punishments for forging stamps, &c., and (cl. 2) empowers Police Officer to seize, and (cl. 3) to search houses, &c.

36. Provides penalties for evading postage duties, by using old stamps, &c.

37. Postage on letters not taken in to be paid by sender. Postages recoverable like fines.

38. Provides for registering letters.

39. Provides for sending letters by expresses.

40, 41, 42. Directs Commanders of ships having letters to be put into the Post Office, and (41) subject to penalty for every letter kept back, and (42) prescribes what such Commander shall be paid for such letters.

43. Obliges outward bound Commanders to carry letter bags for Post Office.

44. Unclaimed letters to be returned to sender after 3 weeks and directs what shall be done with money, &c.

45. Directs what shall be done with refused letters.

46, 47. Abolishes franking and directs service letters to be charged to public departments from which sent, and (47) person making false certificate of service letter to be punishable.

48. Directs what shall be done in respect of contraband articles passed through office or letters illegally sent.

49. Exonerates Government from responsibility for loss or damage in respect of post.

50. Provides punishments for secreting, opening or making away with letters, &c., or breaking seals, &c.

51. Prohibits detention of post office messengers with mails and detention of horse and carriage, &c.

52. Provides penalties for retaining, secreting, making away with letters and other similar offences.

53. Provides for punishment of letter carriers and other Post Office servants, endangering safety of letters, loitering, &c.

54. Provides for punishment of fraudulent misappropriation of postage money, &c.

55. Provides for punishment of putting wrong marks on letter, altering or removing marks and stamps, &c.

56, 57. Provides punishment for Post Office servants incorrectly preparing documents, &c., and (57) fraudulently putting letters into post bag, &c.

58, 60. Offences punishable only with fine may be dealt with by Js. P. and Magistrates or (60) by Assistants on reference of Magistrate.

59. Convictions not to be quashed for error of procedure: Depositions to be returned on certiorari.

60. See supra.

61. Local Government may empower Assistants and Deputies to exercise power subject to appeal to Magistrate.

62. Fines to be levied by distress and sale of goods, and on default of realization offender may be arrested, &c.

63. Half the fine or amount recovered may be awarded to informer.

64. Proceedings for recovery of fine not to be taken without order of D. G. or P. M. G.

65. Servant of the E. I. C. employed in Post Office duty, committing offences against the Act on foreign native territory to be punishable.

66. Interprets words "Magistrate" and "fine."

67. Empowers G. G. in C. to frame rules for Post Offices.

68. Books, &c., to and from the U. K. not chargeable with postage under this Act, but may be made chargeable by order of G. G. in C.

69. Empowers the G. G. in C. to order specific letters, &c., not to be chargeable.

70. Empowers G. G. in C. to make rules for management of district dawks.

71. Act to take effect, 1st October, 1854.

An Act for the management of the Post Office for the regulation of the duties of Postage, and for the punishment of offences against the Post Office.

Repealed by Act XIV., 1866, "The Indian Post Office Act, 1866."

RAILWAYS.

Act No. XVIII. of 1854.

[*Received assent of G. G. on the 12th August,* 1854.

1. Fares must be pre-paid. Traveller to be furnished with ticket which he must shew on demand and give up at end of journey, or pay fare.

2. Tickets for intermediate stations to be given back if insufficient room. Persons going furthest to have priority, except officers, &c., on duty.

3. Fraud on Company by evasion or attempt at evasion of fare to be subject to fine of Rupees 50.

4. Travellers entering or getting out of carriage in motion, &c., &c., to be liable to fine.

5. Person riding or attempting to ride on locomotive, &c., liable to fine.

6. Person smoking on premises or in carriage liable to fine.

7. Person in state of intoxication in carriage, or committing any nuisance &c., liable to fine.

8. Male person without excuse entering carriage or apartment appropriated to female liable to fine.

9, 10. Railway Company not answerable for luggage unless booked separately, nor (10) for certain valuable articles specified unless value be declared, &c.

11. Except for articles whose value must be declared, Company to be liable for gross negligence or misconduct, notwithstanding it may have given notice, &c., to the contrary.

12. Company may sell goods for unpaid charges upon them.

13, 14. Company entitled to demand a description in writing of number and quantity of goods brought to be carried, and (14) if such description is refused or a false one given a fine is incurred.

15. Company not bound to carry goods of a dangerous nature, and such goods to be marked as such outside, &c.

16, 17, 18. Person wilfully obstructing, &c., any officer of the Company in the discharge of his duty; or (17) trespassing on the Railway, &c., or (18) wilfully riding, leading or driving any animal on or across the Railway, liable to be fined.

19. Regulates crossings of the Railway on any public road.

20. Railway to be fenced.

21. For animal trespassing on railway owner to be fined rupees ten.

22. Provides a penalty for specified injuries to railway carriage, &c.

23. Provides penalty for opening and using private gates on railway when engine is approaching and for not fastening such gates.

24. Unknown person committing offences may be apprehended and detained until he can be taken before a Magistrate.

25, 26, 27. Provides penalty for acts or omissions likely to endanger passengers, and (26) a higher penalty if the act or omission is by a servant of the R. Company, and (27) a penalty for being in a state of intoxication on duty.

28. Provides penalty for rashly or negligently doing any act likely to endanger the safety of passengers.

29. Defines the obligation of railway servants.

30. Offences punishable by all Js. P. and Magistrates, though committed out of jurisdiction.

31. Conviction to be quashed only on the merits as they appear on the depositions, &c.

32, 33. Magistrates may refer cases punishable by fine to assistants and deputies; who (33) may be authorized by local government to take cognizance without reference from the Magistrate, &c.

34. Fines to be recovered by distress and sale of goods and chattels, &c.

35. Gives jurisdiction in Madras to heads of district police and ameens, and in Bombay to district or joint police officers, &c., over offences not punishable with more than 20 rupees.

36. Payment of fares enforceable as fines.

37. For certain offences persons may be apprehended by servants of R. Company without warrant, &c.

38. Interprets words, "Magistrate," "fine," &c.

39. Repeals Acts 3 and 12, 1853.

40. All Indian Railways to be within the Act.

41, 42. R. Co. to report serious accidents to Government, which (42) may require a return of accidents.

43. Act and Rules to be fixed up at stations in English and Vernacular Languages.

An Act relating to Railways in India.

Preamble

Whereas it is expedient that all Railways which have been or shall be opened by any Railway Company, under the superintendence and control of the East India Company, for the public conveyance of passengers or goods in any part of the Territories in the possession and under the Government of the said Company, should be subject to the same regulations, it is enacted as follows:

Fares to be prepaid.

I. No person shall enter any carriage used on any such Railway for the purpose of travelling therein, without having first paid his fare, and obtained a ticket. Every person desirous of travelling on such Railway shall, upon payment of his fare, be furnished with a ticket, specifying the class of carriage and the distance for which the fare has been paid, and shall, when required, show his ticket to any servant of any said Company duly authorized to examine the same, and shall deliver up such ticket upon demand, to any of the Company's servants duly authorised to collect tickets. Any person not producing or delivering up his ticket, as aforesaid, shall be liable to pay the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled.

Passengers' Tickets to be given up on demand.

Penalty.

At intermediate Stations, fares and tickets to be conditional.

II. At the intermediate Stations, the fares shall be deemed to be accepted, and the tickets furnished only upon condition that there be room in the train for which the tickets shall be furnished. In case there shall not be room for all the passengers to whom tickets shall have been furnished those who shall have obtained tickets for the longest distance shall have the preference, and those who shall have obtained tickets for the same distance shall have the preference according to the order in which they shall have received their tickets. Provided that all Officers and troops of Her Majesty, or of the East India Company, on duty, and all other persons on the business of the East India Company, who, by virtue of any con-

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tract with the East India Company, shall be entitled to be conveyed on such Railway in preference to, or in priority over the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which they shall have received their tickets.

Penalty for fraud.

III. Any person who shall defraud or attempt to defraud any such Railway Company, by travelling, or attempting to travel, upon such Railway, without having previously paid his fare; or by riding in or upon a carriage of a higher class than that for which he shall have paid his fare, or by continuing his journey in or upon any of the carriages of the Company beyond the place for which he shall have paid his fare, without previously paying the fare for the additional distance, and with intent to avoid payment thereof, or who shall knowingly and wilfully refuse or neglect, on arriving at the point to which he shall have paid his fare, to quit such carriage, or who shall, in any other manner whatever, attempt to evade the payment of his fare, shall be liable to a fine not exceeding fifty rupees for each offence.

Fine for entering carriage in motion.

Or riding on the steps.

IV. Any passenger who shall get into or upon, or attempt to get into or upon, or shall quit or attempt to quit any carriage upon any such Railway, while such carriage is in motion, or who shall ride or attempt to ride upon any such Railway, on the steps, or any other part of a carriage, except on those parts which are intended for the accommodation of passengers, shall be liable to a fine not exceeding twenty rupees for each offence.

Fine for riding on engine, tender, or luggage-van.

V. Any person other than the engine-man, and fire-man and assistant fire-man, if any, who, without the special license of the Superintendent of Locomotives, shall ride or attempt to ride upon any locomotive, engine or tender, upon any such Railway, and any person other than the guard or breaksmen, who, without such license as aforesaid, shall ride or attempt to ride upon such Railway, in or upon any luggage-van or goods-waggon, or other vehicle not appropriated to the carriage of passengers, shall be liable to a fine not exceeding twenty rupees for each offence.

Smoking prohibited.

VI. If any person shall smoke, either on the premises, or in or upon any of the carriages belonging to

any such Railway Company except in places or carriages which may be especially provided for the purpose, he shall be liable to a fine not exceeding twenty rupees for each offence; and if any person persist in infringing this regulation after being warned to desist by any of the servants of the Company, such person, in addition to incurring the liability above-mentioned, may be removed by any of the servants of the Company, from any such carriage, and from the premises of the Company, and shall forfeit his fare.

Penalty for intoxication or Noisance.

VII. Any person who shall be in a state of intoxication, or shall commit any nuisance or act of indecency in any Railway carriage, or upon any part of the premises of any such Railway Company, or who shall wilfully and without lawful excuse interfere with the comfort of any passenger on such Railway, shall be liable to a fine not exceeding twenty rupees; and in addition to such liability the offender may be removed by any of the servants of the Company from any such carriage, and also from the premises of the Company, and shall forfeit his fare.

Penalty for entering private room or carriage.

VIII. If any special carriage, or portion of a carriage, or any private room or apartment, shall be provided by any such Railway Company for the exclusive use of females, any male person, who without lawful excuse shall enter such carriage, or portion of a carriage, or any such room or apartment, knowing the same to be exclusively appropriated as aforesaid, or shall remain therein after having been informed of its exclusive appropriation, shall be liable to a fine not exceeding one hundred rupees, and may be removed therefrom, and also from the premises of the Company, by any of the servants of the Company, and shall forfeit his fare.

No liability for passengers' luggage.

IX. No such Railway Company shall in any case be answerable for loss or injury to any passengers' luggage unless it shall have been booked and separately paid for.

No liability for loss of gold, silver, &c., unless in the case of special engagement.

X. No such Railway Company shall in any case be answerable for loss or injury to any gold or silver, coined or uncoined, manufactured or unmanufactured, or any precious stones, jewellery, watches, clocks or time-pieces of any descrip-

tion, trinkets, Government securities, bills of exchange, promissory notes, Bank-notes, orders or other securities for payment of money, Government stamp paper, postage stamps, maps, writings, title-deeds, paintings, engravings, pictures, plated articles, glass, china, silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials, shawls, lace, or any of them contained in any parcel or package which shall have been delivered to such Railway Company, either to be carried for hire or to accompany the person of any passenger, unless the value and nature of such articles shall have been declared by the person or persons sending or delivering the same, and an increased charge for the safe conveyance of the same shall have been accepted by some person specially authorized to enter into such engagements on behalf of the said Railway Company.

Public notice or private contract not to limit liability.

XI. The liability of such Railway Company for loss or injury to any articles or goods to be carried by them other than those specially provided for by this Act shall not be deemed or construed to be limited or in any wise affected by any public notice given, or any private contract made by them; but such Railway Company shall be answerable for such loss or injury when it shall have been caused by gross negligence or misconduct on the part of their agents or servants.

Remedy for non-payment of the carriage of goods.

XII. If any person shall fail to pay on demand any sum due to any such Railway Company for the conveyance of any goods, it shall be lawful for the Company to detain all or any part of such goods, or, if the same shall have been removed from the premises of the Company, any other goods of such person which shall then be on their premises, or shall thereafter come into their possession; and also to sell by public auction sufficient of such goods to realize the sum payable as aforesaid, and all charges and expenses of such detention and sale, and out of the proceeds of the sale to retain the sum so payable, together with the charges and expenses aforesaid, rendering the overplus, if any, of the money arising by such sale, and such of the goods as shall remain unsold to the person entitled thereto; or the Company may recover any such sum by action at law.

Written account of goods to be given on demand.

XIII. The owner or person having the care of any goods which shall have been carried upon any such Railway, or shall be brought on to the premises of any such Railway Company for the purpose of being carried on the Railway, shall, on demand by any servant of the Company appointed to receive goods to be carried on that part of the Railway on which such goods shall have been carried, or shall be about to be carried, deliver to such servant an exact account in writing signed by him of the number or quantity and description of such goods.

Penalty for false account.

XIV. If any such owner or person as aforesaid shall wilfully fail to give such account to such servant of the Company, or if he shall wilfully give a false account thereof, he shall, for every such offence be liable to a fine not exceeding fifty rupees for every ton of goods, or for any parcel exceeding one hundred weight; and to a fine not exceeding twenty rupees for any quantity of goods less than a ton or for any parcel less than one hundred weight.

Carriage of goods of a dangerous nature.

XV. No person shall carry upon any such Railway any dangerous goods, or be entitled to require any such Railway Company to carry upon such Railway any luggage or goods which, in the judgment of the Company or any of their servants, shall be of a dangerous nature; and if any person shall carry upon such Railway any dangerous goods, or shall deliver to such Railway Company any such goods for the purpose of being carried upon such Railway, without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing of the nature thereof to the book-keeper or other servant of the Company to whom the same shall be delivered for the purpose of being so carried, he shall be liable to a fine not exceeding two hundred rupees for every such offence; and it shall be lawful for any such Company or any of their servants to refuse to carry any luggage or parcel that they may suspect to contain goods of a dangerous nature, and to require the same to be opened to ascertain the fact previously to carrying the same; and in case any such luggage or parcel shall be received by the Company for the purpose of being carried on the Railway, it shall be lawful for the Company or any of their servants to stop the transit thereof,

until they shall be satisfied as to the nature of the contents of the baggage or parcel.

Penalty for obstructing servant in his duty.

XVI. Any person who shall wilfully obstruct or impede any officer or servant of the Company in the discharge of his duty on such Railway or any of the works, stations or premises connected therewith, shall be liable to a fine not exceeding fifty rupees.

Penalty for trespass.

XVII. Any person who shall trespass upon any such Railway or upon any of the lands, stations, or other premises belonging to the Company, shall be liable to a fine not exceeding twenty rupees; and if any such person shall refuse to leave such Railway or premises on being requested to do so by any officer or servant of the Company, or by any other person on behalf of the Company, he shall be liable to a fine not exceeding fifty rupees, and may be immediately removed from such Railway or premises by such officer, servant, or other person as aforesaid.

Penalty for driving an animal upon or across Railway.

XVIII. Any person who shall wilfully ride, lead, or drive upon or across any such Railway, any animal, except in directly crossing the said Railway at any road or place appointed for that purpose, at a time at which he shall be lawfully authorized so to do, shall be liable to a fine not exceeding fifty rupees for each offence.

Precaution if Railway crosses road.

XIX. If the Railway cross any public carriage road on a level, the Railway Company shall erect, and at all times maintain good and efficient gates, either across the railway, or across the road on each side of the Railway where the same shall communicate with the road, and shall employ proper persons to open and shut such gates; if such gates be across the road, they shall be kept constantly closed, except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross the Railway, and the gates shall be of such dimensions and so constructed as when closed to fence in the Railway, and prevent cattle or horses passing along the road from entering upon the Railway. If the gates be across the Railway they shall be kept closed, except when engines or carriages passing along the Railway shall have occasion to cross the road, and shall be of such dimensions and

so constructed as when open to fence in the Railway, and prevent cattle, carriages, or passenger from entering upon the Railway. Provided that it shall be lawful for the local Government in any case to order that the gates shall be across the Railway as the Government may think fit, and in such case the gates shall be erected, maintained, and closed accordingly. If any Railway Company shall wilfully fail to comply with the provision of this Section, they shall forfeit a sum not exceeding two hundred rupees for each offence, and any Magistrate or Justice of the Peace may, in case any such gates be not erected or maintained, order the Company to erect and maintain the same within a time to be specified in the order, and in case of wilful failure on the part of the Railway Company to comply with such order, they shall be liable to a fine not exceeding two hundred rupees for every day that they shall wilfully fail so to do.

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Penalty.

XX. Every such Railway Company shall be bound to erect and maintain good and sufficient fences on each side of their Railway; or, failing therein, shall be liable to a fine not exceeding fifty rupees for every offence; and it shall be lawful for a Magistrate or Justice of the Peace to order the Company to erect or repair any such fence within a time to be specified in the order, and upon failure of the Company to comply with such order, they shall be liable to a fine not exceeding fifty rupees for every day that they fail so to do.

Railway to be fenced. Penalty for not fencing.

XXI. The owner of any animal which shall trespass or stray upon any such Railway, or upon any lands belonging to such Railway Company, except for want of the erection or maintenance of any fence or gate which the Company is bound to erect and maintain, shall be liable to a fine not exceeding ten rupees for each animal; and it shall be lawful for the Company, or any of their servants, to take or drive every animal which shall be found so trespassing to the nearest Police Station, there to be detained until the highest amount of fine incurred by such trespass and the expense of feeding and keeping the animal be paid, or until a Magistrate shall otherwise order. A Magistrate may, upon proof of the

Liability of owner of animal trespassing.

trespass, cause such animal to be sold by public auction, and the proceeds of the sale, after deducting therefrom such fine or such a sum, not exceeding ten rupees for each animal, as the Magistrate shall award to be paid in lieu of the fine to which the owner is hereby made liable, and such further sum as the Magistrate shall order to be paid for the expenses of detaining, feeding, and selling such animal, shall be returned to the owner of the animal on demand.

Penalty for injury to carriage, &c.

XXII. Any person who shall unlawfully and wilfully remove or deface the number plates, or remove or extinguish any lamp on any carriage belonging to any such Railway Company; or shall wilfully or negligently damage or injure any carriage, engine, waggon, truck, warehouse, building, machine, fence, or any other matter or thing belonging to such Railway Company, shall be liable to a fine not exceeding fifty rupees.

Penalty for opening or not properly shutting gates.

XXIII. If any person for whose use or accommodation any gate shall have been set up by any such Railway Company on either side of such Railway, or any other person, shall open such gate, or pass or attempt to pass, or drive or attempt to drive any carriage, cattle, or other animal or thing across the said Railway at a time when any engine or train approaching along the same shall be in sight, or shall at any time omit to shut and fasten such gate, as soon as he and any carriage, cattle, or other animal or thing under his charge shall have passed through the same, he shall be liable to a fine not exceeding Fifty Rupees.

Offender may be apprehended.

XXIV. If any person shall commit any offence hereby made punishable by fine, and the name and address of such person shall be unknown, or there be reason to believe that the offender will abscond, any officer or servant of the Company, or any police officer, or other person whom such officer or servant may call to his aid, may, without any warrant or written authority, lawfully apprehend and detain such offender until he can be taken before a Magistrate or other officer having jurisdiction over the offence, or shall give sufficient security for his appearance before such Magistrate or other officer, or shall be otherwise discharged by due course of law.

Penalty for wilful act or omission endangering a passenger.

XXV. Whoever shall wilfully do any act, or shall wilfully omit to do what he is legally bound to do, intending by such act or omission to cause, or knowing that he is thereby likely to cause the safety of any person travelling or being upon any such Railway to be endangered, shall be liable to be transported beyond sea for the term of his life, or be imprisoned, with or without hard labour, for any term not exceeding seven years.

Penalty for wilful act or omission in a Railway Officer.

XXVI. If any officer or servant of such Railway Company shall wilfully do any act which he is legally prohibited from doing, or shall wilfully or negligently omit to do what he is legally bound to do, and if, in consequence of such act or omission, the safety of any person travelling or being upon such Railway, shall be endangered, such officer or servant shall be liable to be imprisoned, with or without hard labour, for any term not exceeding three years, or to fine, or to both.

Penalty for drunkenness or breach of duty by Railway Officer.

XXVII. Any officer or servant of such Railway Company, who shall be in a state of intoxication whilst actually employed upon the Railway, or any of the works connected therewith, in the discharge of any duty, and any officer or servant of such Company, who negligently shall omit to perform his duty, or shall perform the same in an improper manner, shall be liable to a fine not exceeding Fifty Rupees; and if the duty in any of the cases in this Section above-mentioned be such that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such officer or servant shall, on conviction before a Magistrate, be liable to imprisonment, with or without hard labour, for a term not exceeding one year, or to fine, or to both.

Penalty for an act not wilful.

XXVIII. If any person shall rashly or negligently, and without lawful excuse, do any act which shall be likely to endanger the safety of any person travelling or being upon such Railway, he shall, upon conviction before a Magistrate, be liable to imprisonment, with or without hard labour, for a term not exceeding one year, or to fine, or to both.

Rule of construction of this Act.

XXIX. In the construction of this Act, every officer and servant of such Railway Company shall be deemed to be legally bound to do every thing necessary for, or conducive to the safety of the public, which he shall be required to do by any Regulation which shall be made by the Company, and allowed by the Governor General of India in Council, and of which Regulation such officer or servant shall have notice; and every such officer and servant shall be deemed to be legally prohibited from doing every act which shall be likely to cause danger, and which by any such Regulation he shall be prohibited from doing; and every person employed by or on behalf of such Railway Company to do any act upon the Railway, shall be deemed to be a servant of the Company.

Jurisdiction of Magistrate, &c., to fine.

XXX. Any person, whether a European British subject or not, who shall be guilty of any offence, for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable for such offence by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras and Bombay, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, whether the offence shall have been committed within the local limits of the jurisdiction of such Officer or not, and any person hereby made punishable by a Justice of the Peace, shall be punishable upon summary conviction.

Conviction to be quashed on merits only—form of conviction, &c.

XXXI. No conviction, order or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*, and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Magistrate may refer case to his Assistant or Deputy.

XXXII. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only to any of his Assistants, or to any Deputy Magistrate lawfully appointed to

exercise the powers of a covenanted assistant, and in such case every such Assistant or Deputy Magistrate may exercise all the powers vested in a Magistrate, subject to all the rules applicable to criminal cases deputed to such Assistants or Deputy Magistrate, acting judicially.

Local Government may authorize Assistants, &c.

XXXIII. The Local Government may give general authority to any such Assistant or Deputy Magistrate to exercise, without reference by a Magistrate, any of the powers which they are hereby rendered competent to exercise upon reference by a Magistrate, subject to appeal to the Magistrate from any conviction by such Assistant or Deputy Magistrate, within one month from the date of conviction.

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Provided that a Magistrate may at any time call from any of his Assistants, or from any Deputy Magistrate subordinate to him, any case pending before such Assistant or Deputy Magistrate.

Fines, how to be Recovered.

XXXIV. All fines imposed under the authority of this Act for offences punishable by fine only by any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, or by any Assistant to a Magistrate, or Deputy Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named officers; and in case any such fine shall not be forthwith paid, any such officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such officer may take such security by way of recognizances or otherwise; and if upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such officer may, by warrant under his hand, commit the offender to prison, there to be im-

prisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such officer for any term not exceeding two calendar months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Jurisdiction in the Madras and Bombay Presidencies.

XXXV. The heads of district police and ameens of police in the Presidency of Madras, and district or joint police officers in the Presidency of Bombay, may punish, to the extent of the powers conferred upon them respectively in petty offences, any offence hereby made punishable by fine not exceeding twenty rupees.

Enforcing payment of fare by passenger not producing ticket.

XXXVI. Payment of any fare to which any passenger not producing or delivering up his ticket shall be liable under Section I. of this Act, may be enforced in the same manner as any fine imposed by this Act.

Apprehension of offenders.

XXXVII. Every person who shall be guilty of any offence mentioned in Sections XXV., XXVI., XXVII. and XXVIII. of this Act, may be lawfully apprehended without any warrant or written authority, by any servant or officer of the Company, or by any other person whom such officer or servant shall call to his aid, or by any police officer of such grade, as shall by any law in force for the time being be entrusted in any case with the power of arrest without a warrant; and every person so apprehended shall with all convenient despatch, be carried and conveyed before a Magistrate or Justice of the Peace, or other officer lawfully authorized to punish the offender or to commit him for trial.

Construction.

XXXVIII. In the construction of this Act, unless where a contrary intention appears from the context, the word "Magistrate" shall include a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate; words in the singular number shall include the plural; words in the plural shall include the singular; and words in the masculine gender shall include the feminine; and the word "fine" shall include a sum of money due upon a forfeited recognizance.

Acts Repealed.

XXXIX. Acts No. III. of 1853, and No. XII. of 1853, are hereby repealed, except as to acts done, offences committed, and liabilities incurred before the passing of this Act.

All Indian Railways to be within the Act.

XL. Every Railway within the said Territories, used for the public conveyance of passengers or goods, shall, until the contrary be proved, be presumed to be a Railway within the meaning of this Act, and every Company to whom any such Railway shall belong shall, until the contrary be proved, be presumed to be a Railway Company within the meaning of this Act.

Penalty for omitting to report accident.

XLI. Every such Railway Company shall, within forty-eight hours after the occurrence upon the Railway belonging to such Company of any accident attended with serious personal injury, give notice thereof to the local Government; and if any such Company omit to give such notice, they shall forfeit the sum of Fifty Rupees for every day during which the omission to give the same shall continue.

Local Government may require a return of accidents.

XLII. The Local Government may order and direct any such Railway Company to make up and deliver to them a return of serious accidents occurring in the course of the public traffic upon the Railway belonging to such Company, whether attended with personal injury or not, in such form and manner as the Government shall deem necessary and require for their information with a view to the public safety; and if any such return shall not be so delivered within fourteen days after the same shall have been required, every such Company shall forfeit the sum of Fifty Rupees for every day during which the said Company shall neglect to deliver the same.

Penalty.

Copy and translation of Acts to be shown at Railway Station.

XLIII. A copy of this Act, and of the General Regulations, Time-Tables, and Tariff of charges, which shall from time to time be published by any Railway Company, with the sanction of the Local Government, shall be exhibited in some conspicuous place at each Station of every Railway, so that they may be easily seen and read; and all such documents shall be so exhibited in English and in the Vernacular language of the district

in which the Station is situate, and in such other language, if any, as shall be required by order of the Local Government.

Extended by Act XXII., 1863, to all Railways under that Act. By Act XXXI., 1867, ("The Railway Servants' Act, 1867,") Railway Servants declared to be Public Servants within the meaning of Indian Penal Code, ss. 161, 162, 163, 164, 165.

FOREIGN SUGAR.

ACT No. XIX. OF 1854.

[*Received assent of G. G. on the 26th August*, 1854.

Repeals prohibition under Acts 32, 1836; 15, 1839; 11, 1842; and part of 14, 1843 of Importation of Sugar into Bengal and N. W. P.

An Act for removing the prohibition against the importation of Foreign Sugar.

Preamble.

Whereas by the provisions of a Statute passed in the 12th year of the reign of Her present Majesty, the duties to be levied on the importation of Sugar from different places into the United Kingdom, have been equalized, it is enacted as follows:

Repeal of Acts prohibiting the importation of Sugar into Bengal, Madras, and the North Western Provinces.

I. Acts XXXII. of 1836, XV. of 1839, XI. of 1842, and so much of Act XIV. of 1843 as prohibits the importation of Sugar into any part of the North-Western Provinces of the Presidency of Bengal, are hereby repealed.

AGENT TO GOVERNOR GENERAL.

ACT No. XX. OF 1854.

[*Received assent of G. G. on the 26th August*, 1854.

1. Repeals part of s. 4, R. 13, 1833.
2. Duties of Agent of G. G. to be vested in such officer as may be appointed.

An Act to amend Regulation XIII. of 1833 of the Bengal Code.

Preamble.

Whereas it is expedient to amend the provisions of Regulation XIII. of 1833 of the Bengal Code, it is enacted as follows:

Repeals part of Regulation XIII. of 1833.

I. So much of the said Regulation as prescribes that the Officer in whom the duties specified in Section IV. of the said Regulation shall be vested, shall be denominated "Agent to the Governor General," is repealed.

Officer appointed by the Local Government may exercise all powers by that Regulation vested in the Agent to the Governor General.

II. Such duties shall be vested in any Officer whom the Local Government shall, from time to time, appoint for that purpose, and such Officer when appointed, and his assistants respectively, may exercise, within the tracts of country separated as prescribed in the said Regulation, all the powers which by the said Regulation the Agent to the Governor General and his assistants respectively may exercise, and all the provisions in the said Regulation relating to the Agent to the Governor General and his assistants, shall be applicable to the Officer to be appointed as aforesaid and his assistants respectively.

BANKS OF BENGAL, MADRAS AND BOMBAY.

Act No. XXI. of 1854.

[*Received assent of G. G. on the 26th August*, 1854.

1. Empowers Secretary, &c., to draw, accept and endorse Bills, P. Notes and B. post bills and to transfer and endorse Government Securities.

2. Empowers Bank to lend on Security of Railway Shares, to extent of ¾ of value.

An Act to amend the Law relating to the several Banks of Bengal, Madras, and Bombay.

Preamble.

For the purpose of removing doubts, and of extending the powers of the chartered Banks of Bengal, Madras and Bombay, it is enacted as follows:

Secretary, &c., empowered to draw and endorse Bills, &c., and to sign documents for the Banks.

I. The persons for the time being holding the Offices of Secretary and Treasurer, or of Secretary alone, or of Deputy Secretary of the Bank of Bengal, of the Bank of Madras, or of the Bank of Bombay, are hereby severally empowered, for and on behalf of the Bank under which they hold either of such offices, to endorse and transfer Government Securities standing in the name of the Bank, to draw, accept and endorse Bills

of Exchange, Promissory Notes, and Bank Post Bills connected with the current and ordinary business of the Bank, and to sign all other documents connected with such business.

Banks may lend money on Shares of guaranteed Railway Companies.

II. It shall be lawful for any of the said Banks to lend money on the security of shares in such of the incorporated Indian Railway Companies as hold a guarantee from the East India Company with regard to interest; provided that no such loan shall in any case exceed in amount three-fourths of the paid-up value of the shares, on the security of which the loan is made, and in every case such shares shall be transferred to the Bank by which the loan is made either absolutely, or by way of mortgage.

Proviso.

Act XXVII., 1855, is an Act to enable the Banks of Bengal, Madras, and Bombay to transact business in respect of Government securities and shares in the said Banks.

Repealed by Act IV., 1862, so far as relates to the Bank of Bengal.

BRITISH SUBJECTS.

Act No. XXII. of 1854.

[*Received assent of G. G. on the 23rd September*, 1854.

Repeals parts of 53 Geo. 3, c. 155, s. 105, and of s. 2, B. R. 15, 1806, and of s. 2, M. R. 4, 1809.

An Act to repeal certain parts of the 53 George 3, c. 155, of Section II., Regulation XV., of 1806, of the Bengal Code, and of Regulation IV., of 1809, of the Madras Code.

Preamble.

Whereas by Letters Patent dated the 1st day of March, 1851, all amerciaments, fines, forfeitures, and penalties belonging to the Crown, were granted to the East India Company, and it is no longer necessary that fines realized by Magistrates, under the provisions of the Statute 53, George 3, c. 155, s. 105, should be remitted to the Clerk of the Crown; and whereas also it is no longer necessary that, in all cases in which European British Subjects are concerned, the Magistrates should report their proceedings to the Government, it is enacted as follows:

Repeals certain parts of Statute 53, George 3, c. 155, s. 105, of Section II., Regulation XV., of 1806, of the Bengal Code, and of Regulation IV., of 1809, of the Madras Code.

So much of the Act of Parliament 53, George 3, c. 155, s. 105, as requires that, in all cases of Conviction of a British Subject under the provisions contained in that Section, the Magistrate, before whom such conviction takes place, shall forthwith transmit copies of such conviction, and of all depositions and other proceedings relative thereto, to the Government to which the place where the offence was committed is subordinate; and so much of the same Section of the above-mentioned Act, as prescribes that any part of any fines shall be transmitted by the Magistrate to the Clerk of the Crown or other Officer to whom it belongs to receive fines in any of Her Majesty's Courts of Oyer and Terminer and Gaol Delivery, and that such fines shall be disposed of in the same manner as other fines imposed by such Courts; and so much of Section II., Regulation XV. of 1806, of the Bengal Code, and Section II., Regulation IV. of 1809, of the Madras Code, as requires the Magistrate, by whom any European British Subject is held to bail or committed to take his trial before Her Majesty's Supreme Court at Calcutta, to transmit copies of the original depositions, together with translations of any papers not being in the English language, to the Secretary to Government, are hereby repealed.

MALABAR.—THE MOPLAS.

Act No. XXIII. of 1854.

[*Received assent of G. G. on the 28th October*, 1854.

Recites the commission of murderous outrages by the Moplas.

1. Authorizes the G. in C. of Madras to proclaim Malabar as under the provisions of this Act.

2. Mopla murdering or attempting to murder any person of other class, or any person joining in or accessary to outrages by Moplas to forfeit property, the property also of those who have been killed in the course of such outrages when fact found by post mortem inquest.

3. Authorizes burial or burning of bodies of Moplas within the precincts of Gaol.

4. Powers of G. in C. under M. R. 2, 1819, and Act 5, 1841, as to confinement or trial of persons, extended to offenders under this Act.

5. Magistrate to apply to G. in C. for orders respecting any Mopla, &c., against whom he wishes to proceed under last Section.

6. If after self-banishment, in commutation for trial, party returns, he shall be liable to imprisonment, &c.

7. Authorizes the Magistrate, with consent of G. in C., to levy fine on the district to which any offending Mopla may belong.

8. Fines under this Act to be levied like public Revenue, and Magistrate not to be liable to any civil action.

9. Empowers G. in C. to annul proclamation.

10. Act to continue in force till 31st December, 1859.

An Act for the suppression of the Outrages in the District of Malabar, in the Presidency of Fort St. George.

By Act V., 1856, declared to take effect from 1st August, 1855; and repealed by Act XX., 1859.

MALABAR.—WAR-KNIVES.

Act No. XXIV. of 1854.

[*Received assent of G. G. on the 28th October*, 1854.

1, 2. Prohibits the use of the Ayudha Cutty or war-knife in Malabar, and requires such knives to be given up; and (2) establishes fine for possessing, buying, selling or manufacturing such knife or similar weapon.

3. Empowers Magistrate to cause search to be made for such weapons, &c.

An Act to prohibit the possession of certain offensive Weapons in Malabar.

Repealed by Act XX., 1859.

BENGAL.—MOFUSSIL TREASURY WARRANTS.

Act No. XXV. of 1854.

[*Received assent of G. G. on the 4th November*, 1854.

Recites that the issue of warrants for payment of money out of treasuries is unnecessary. Repeals s. 12, B. R. 2, 1793; s. 12, B. R. 5, 1795; s. 11, B. R. 25, 1803; and part of s. 18, B. R. 8, 1805. But written order of the Collector necessary.

An Act for discontinuing the practice of issuing warrants for the payment of money from the Treasuries of the Collectors.

Preamble.

Whereas the issue of warrants for the payment of money from the Treasuries of the Collectors is unnecessary, it is enacted as follows:

Section 12, Regulation II. of 1793, Section 12, Regulation V. of 1795, Section XI., Regulation XXV. of 1803, and part of Section 18, Regulation VIII. of 1805, of the Bengal Code, repealed.

Section XII., Regulation II. of 1793, Section XII., Regulation V. of 1795, Section XI., Regulation XXV. of 1803, and so much of Section XVIII., Regulation VIII. of 1805, of the Bengal Code, as extends Section XI., Regulation XXV. of 1803, to the Provinces and Territories specified in Section III. of that Regulation, are hereby repealed. Provided, however, that no money shall be paid away from any such Treasury, except under the written order of the Collector, or other officer in charge of the Treasury.

Proviso.

BENGAL.—COURT OF WARDS.—EDUCATION.

Act No. XXVI. of 1854.

[*Received assent of G. G. on the 11th November*, 1854.

1. Vests in Collector the superintendence and control of the education of male minors whose property is under the Court of Wards.

2, 3. Empowers Collector to direct where the minor shall reside for the purposes of education, &c., or (3) to direct him to have a private education.

4. Expenses of education to be defrayed out of estate.

5. Court of wards may remove guardians of male minors for disobedience to orders of Collector.

6. Guardian after removal to remain liable to account to Collectors.

7. Vests the right of custody of male minors in the person appointed with the sanction of the Court of Wards.

8. Gives Court of Wards right of revising of orders of Collector and gives appeal to Commissioner against orders of Collector.

An Act for making better provision for the education of male minors subject to the superintendence of the Court of Wards.

Preamble.

Whereas the existing laws are found insufficient to ensure the proper education of male minors subject to the superintendence of the Court of Wards, and it is expedient to make further and better provision for the education of such persons, it is enacted as follows:

General control and superintendence of the education of male minor wards vested in Collectors of Revenue.

I. The general superintendence and control of education of every male minor, whose property has been or shall be brought under the management of the Court of Wards, in and for any part of the Presidency of Fort

William, by virtue of any Act or Regulation which now is or hereafter shall be in force, is hereby vested in the Collector of Revenue, acting under the said Court of Wards, in the zillah or district wherein such minor's estate is situate; or if such minor is possessed of immoveable property in different districts, in such one of the Collectors of Revenue of such districts as the said Court of Wards shall select.

Collectors to have power to cause male minor wards to be educated at any school or college.

II. It shall be lawful for every Collector of Revenue, in whom the superintendence of the education of any minor is vested by this Act, to direct that such minor shall reside, either with or without his guardian, at the Sudder station of the district, or at any other place within the said Presidency, and shall attend, for the purposes of education, such school or college as the said Collector may seem expedient; and to make such provision as may be necessary for the proper care and suitable maintenance of the said minor whilst attending such school or college.

Or in certain cases to cause such wards to be educated privately.

III. If it shall appear to the Collector inexpedient to place any such minor at a school or college, he shall, if the proceeds of the Estate are sufficient for that purpose, cause such minor to be educated by a private tutor, properly qualified, either at the family residence of such minor or at the Sudder station or elsewhere within the said Presidency; and in that case also the Collector shall have power to determine from time to time the place of residence of such minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

Charges and expenses incurred under this Act, to be paid out of the profits of the ward's estate.

IV. All charges and expenses which may be incurred on account of any male minor ward under the provisions of this Act, for college or school fees or for other charges of tuition or education, or by reason of his residence in any place other than his own home or otherwise, shall be defrayed from the profits of his estate in the same manner as other expenses incurred under the authority or with the sanction of the Court of Wards.

Court of Wards to have power to remove guardians for disobedience to orders passed by a Collector under this Act.

V. It shall be lawful for the Court of Wards, on the application of a Collector, to remove from office, any guardian who shall neglect or refuse to obey, or shall evade compliance with any orders passed, or directions given by such Collector under the provisions of this Act, and to cause a new guardian to be appointed in his place, whether the person so removed shall have been first invested with the guardianship of the minor upon the nomination of a Collector acting under the Court of Wards, or by a testamentary appointment confirmed by the Court of Wards, and if in any such case the guardian to be removed shall be also the manager of the minor's estate, it shall be lawful for the Court of Wards, at its discretion, either to remove him from both the said offices, or to continue him in that of Manager only.

Continued liability of guardian removed, powers and responsibilities of new guardian.

VI. The guardian so removed shall, notwithstanding his removal, continue liable to account to the Collector for his receipts and disbursements during the period of his guardianship; and every guardian appointed in the place of a guardian so removed, shall be chosen in the same way, and shall have the same rights and powers, and be subject to the same responsibilities as persons originally appointed to be guardians of minors by a Collector of Revenue acting under the Court of Wards.

The right to the custody of the person of a male minor to be vested in guardian appointed by the Court of Wards, or, failing him, in the Collector.

VII. The right to the custody of the person of any male minor, whose property is under the management of the Court of Wards, is hereby vested in the person appointed with the sanction of the Court of Wards, either originally or upon the removal of a former guardian, to be the guardian of such minor, or in the absence of any such person, in the Collector of Revenue having the superintendence of the education of such minor under the provisions of this Act.

Appeal from the orders of a Collector to lie to Commissioner of Revenue acting as a Court of Wards.

VIII. All orders and proceedings of a Collector under the provisions of this Act, shall be subject to the revision of the Court of Wards, and every person aggrieved by any such order or proceeding, may prefer an appeal therefrom to

the Commissioner of Revenue acting as a Court of Wards in and for the division to which such Collector belongs.

See Act XL., 1858, An Act for making certain provisions for the care of the persons and property of minors in the Presidency of Fort William in Bengal.

NAZIM OF BENGAL.

Act No. XXVII of 1854.

[*Received assent of G. G. on the* 11*th November*, 1854.

1. Repeals s. 10, B. R. 16, 1793; B. R. 19, 1805; B. R. 16, 1806; and B. R. 19, 1825.

2, 3. Regulates service of Civil process, and (3) of Criminal process within the Nazim's palace.

4. Certificate of execution of process to be deemed *primâ facie* true.

5. Empowers Government of Bengal to define limits of the palace precincts.

An Act to amend the Law relating to the Nazim of Bengal.

Preamble.

Whereas it is expedient to repeal such parts of the Bengal Regulations as relate to the Nazim of Bengal, his servants, and relations, and to make better provision for the execution of process within the precincts of the palace of the Nazim at Moorshedabad, it is enacted as follows:

Regulations repealed.

I. Section X., Regulation XVI. of 1793, Regulation XIX. of 1805, Regulation XVI. of 1806, and Regulation XIX. of 1825, of the Bengal Code, are hereby repealed.

Execution of Civil process within the Nazim's palace.

II. When any process, issued by any Civil Court, Collector, or other Revenue Officer, in the Territories of the East India Company, is required to be served or executed within the precincts of the palace of the Nazim at Moorshedabad, such process shall be transmitted to the superintendent of the affairs of the Nizamut, or other officer, however denominated, exercising for the time being the control and superintendence of the affairs of the Nizamut; and such Superintendent or other officer shall cause such process to be served or executed according to the exigency thereof, and shall return the same, with a certificate of what shall have been done thereon.

III. When any process issued by any Criminal Court, Justice of the Peace, Magistrate, or Officer exercising the powers or any of the powers of a Magistrate in the Territories of the East India Company, is required to be served or executed within the precincts of the palace of the Nazim at Moorshedabad, such process may, at the discretion of the Court or officer issuing the same, be transmitted to the Superintendent of the affairs of the Nizamut, or other officer, however denominated, exercising for the time being the control and superintendence of the affairs of the Nizamut; and in such case, such Superintendent or other Officer shall cause such process to be served or executed according to the exigency thereof, and shall return the same with a certificate of what shall have been done thereon.

Execution of Criminal process within the Nazim's palace

IV. Every certificate returned by the Superintendent or other officer aforesaid, under this Act, shall, in all cases, be admitted as *primâ facie* proof of the truth of the matter stated therein.

Proof of Execution

V. It shall be lawful for the Government of Bengal to define, for the purposes of this Act, by notification in the "Calcutta Gazette," the limits of the precincts of the palace of the Nazim at Moorshedabad; and from time to time in like manner to alter such limits.

Limits of the palace, how to be defined.

CALCUTTA.—MUNICIPAL.

Act No. XXVIII. of 1854.

[*Received assent of G. G. on the* 18*th November*, 1854.

1. Repeals so much of Act X., 1852, as relates to election, &c., of Commissioners.

2. Continues present Commissioners till 31st December, 1855, or until new Legislative provision be made.

An Act to continue the Commissioners for the Improvement of the Town of Calcutta, pending the consideration of an Act to amend Act X. of 1852.

I. So much of Act X. of 1852, as relates to the election and time of holding office of the Commissioners for the Improvement of the Town of Calcutta, is repealed.

Repeal of so much of Act X. of 1852, as relates to the election of Commissioners.

II. [Of temporary operation. Obsolete.]

Repealed by Act XXVIII., 1856.

SALTPETRE.

ACT No. XXIX. OF 1854.

[*Received Assent of G. G. on the* 18*th November*, 1854.

1. Prohibits exportation of Saltpetre till otherwise ordered by G. G. in C.

2. Renders liable to seizure Saltpetre attempted to be exported in contravention of this Act.

An Act to prohibit the Exportation of Saltpetre to certain Ports in Europe.

Passed on occasion of the Russian War, and now Obsolete.

ARRACAN, PERU, MARTABAN, TENASSERIM PROVINCES.—CUSTOMS' DUTIES.

ACT No. XXX. OF 1854.

[*Received assent of G.G. on the* 2*nd December*, 1854.

1. Repeals part of Act 7, 1848, extends s. 3, of Act 6, 1848, to Arracan and Tenasserim; also repeals ss. 18, 19, 35, of Act 1, 1852, as respects those Ports.

2. Extends Bengal Import Duties to those Eastern Provinces.

3. Establishes Import Duty on Salt at 8 annas a maund, with power to reduce it, &c.

4. Extends Bengal Export Duties to these Eastern Provinces, except as to Teak Timber, and except as to imported goods which have paid Frontier Import Duty.

5. Extends to these Eastern Provinces Bengal rules relating to Customs' Duties, but vests the authority under them in the G. G. in C.

6, 7. Declares what goods shall be free and what dutiable when imported by the Irrawaddy and Sitang from beyond the northern frontier: and what duty shall be payable on foreign Teak and Spirituous Liquors, and (7) extends same duty to Teak floated down any river in Martaban, &c.

8. Empowers the G. G. in C. to make rules for transit of Teak Timber.

9. Establishes export duties on specified articles exported to Northward by the Irrawaddy, &c.

10. Empowers G. G. in C. to fix value of article liable to ad valorem duties.

11. Prohibits the import of Arms, Ammunition and Sulphur: and the export of the same into Foreign Territory without license.

12. Act to commence when.

Schedule of duties.

An Act to provide for the levy of Duties of Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces.

Preamble.

Whereas it is expedient that the Arracan, Pegu, Martaban, and Tenasserim Provinces should be placed, as nearly as possible, in the same position with the Provinces of Bengal and Orissa, in respect to the levy of Duties of Sea Customs; that duties of River Customs should be levied on the Northern Frontier of Pegu; that the floating down of Teak Timber, and the duties payable thereon, in certain of these provinces, should be regulated by law; and that the exportation of munitions of war from any of these Provinces into Foreign States should be prohibited, it is enacted as follows:

Acts repealed.

I. So much of Act VII. of 1848 as excepts the Ports of Arracan and Tenasserim from the operation of Section III., Act VI. of 1848, and so much of Sections XVIII., XIX., and XXXV. of Act I. of 1852, as relates to the said Ports, are repealed.

Duty on imports by Sea.

II. With the exceptions mentioned in Section III. of this Act, all goods imported by Sea into any part of the Arracan, Pegu, Martaban, and Tenasserim Provinces, from any Port not subject to the Government of the East India Company, or from the Port of Aden, or from any Port in the Straits of Malacca, shall be charged with the same rates of duty as those which are or shall be charged on goods of the same description imported from the same Ports into the Provinces of Bengal or Orissa. [See note at end.]

Special Duty on Salt Imported by Sea.

III. Salt imported by Sea into any part of the Arracan, Pegu, Martaban, and Tenasserim Provinces, shall be charged duty at the rate of eight annas a maund: provided that it shall be, in respect to Arracan, in the power of the Governor or Lieutenant-Governor of Bengal, and, in respect to Pegu, Martaban, and Tenasserim, in the power of the Governor General of India in Council, to fix from time to time upon Salt Imported by Sea, any lower rate of duty that may be thought proper, in order to equalize the rate of Customs Duty upon Salt imported by Sea into any of the said Provinces with the rate of Excise Duty on Salt Manufactured in the same province. Opium imported by Sea into any part of the said Provinces shall be charged duty at the rate of twenty-four Rupees a seer, excepting Opium purchased at a Government Sale in Calcutta,

Special Duty on Opium imported by Sea.

which shall be free; provided that no Opium of any description shall be landed in the Provinces aforesaid without a pass from the Collector of Customs at the Port of landing, in default of which such Opium shall be seized and confiscated. [See note at end.]

Duty on Exports by Sea.

IV. All goods, except Teak Timber, exported by Sea from any part of the Arracan, Pegu, Martaban, and Tenasserim Provinces, to any Port not subject to the Government of the East India Company, or to the port of Aden, or to any Port in the Straits of Malacca, shall be charged with the same rates of duty as those which are or shall be charged upon goods of the same description exported to the same Ports from the Provinces of Bengal and Orissa. Provided that when goods, which have paid River Frontier import duty under Section VI. of this Act, are exported by Sea, under a certificate of the Collector of River Frontier Customs passed by the Collector of Sea Customs, the amount of River Frontier import Duty so paid, shall be accepted in full payment of the Sea Export Duty chargeable under this Section. [See note at end.]

Bengal Customs Law to apply.

V. All the laws and rules relating to the levy of duties of Customs, which are or shall be in force in the Provinces of Bengal and Orissa, shall apply to the levy of duties of Sea Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces; provided that the powers which, in the Provinces of Bengal and Orissa, are or shall be vested in the Governor or Lieutenant Governor of Bengal, shall be vested, in respect of Pegu, Martaban, and Tenasserim, in the Governor General of India in Council, and that the powers which, in the Provinces of Bengal and Orissa, are or shall be vested in the Board of Revenue, shall, in respect of Pegu and Martaban, be vested in the Commissioners of those Provinces respectively.

River Frontier Duty on Imports.

VI. All goods, excepting Bullion and Coin, Precious Stones and Pearls, Cotton Wool, Grain and Pulse, and Living Animals, which shall all be free; and excepting Spirituous Liquors and Teak Timber, for which special rules are provided, imported by the River Irrawaddy or the river Sitang from beyond the northern frontier of Pegu, shall be charged, on passing the Frontier Custom House on the Irrawaddy, or the Frontier Custom House on the Sitang, with a Duty

of Custom of ten *per centum ad valorem*. Spirituous Liquors, on passing either of the said Custom Houses, shall be charged import duty at the rate of one Rupee a gallon. Teak Timber, on passing either of the said Custom Houses, shall be charged import duty at such rate as shall be fixed from time to time by the Governor General of India in Council in order to equalize the rate of duty charged on foreign Teak Timber so imported, with the price that may be fixed from time to time for permission to appropriate and remove Teak Timber of the same description growing in the forests of Pegu which are State property.

Special Duty on Spirits.

Special Duty on Teak.

VII. Teak Timber floated down any river in the Martaban or Tenasserim Provinces, shall be charged with the same duty as that chargeable for the time being under Section VI. on Teak Timber passing a River Frontier Custom House, and this duty shall be levied at such places on the said rivers as the Governor General of India in Council shall appoint.

Special Duty on Teak in Martaban and Tenasserim.

VIII. It shall be lawful for the Governor General of India in Council, in respect of the Pegu, Martaban, and Tenasserim Provinces, to promulgate such rules for the time and manner of the floating of Teak Timber within the said Provinces respectively, as may to him seem fit; and to prescribe what descriptions of Teak Timber may lawfully be floated, and what descriptions of Teak Timber may not lawfully be floated, within the said Provinces respectively. And all Teak Timber found floating contrary to such rules or orders, shall be confiscated.

Rules for Teak floated.

IX. Goods of the descriptions specified in the Schedule annexed to this Act, exported beyond the northern frontier of Pegu by the river Irrawaddy, or the river Sitang, shall be charged export duty on passing the Frontier Custom House on the Irrawaddy, or the Frontier Custom House on the Sitang, according to the rates fixed in the said Schedule; and the said Schedule shall be taken to be a part of this Act.

River Frontier Duty on Exports.

X. The Governor General of India in Council shall have power to fix from time to time the valuation at which any article liable to *ad valorem*

Valuation of Goods chargeable *ad valorem*.

duty on passing a River Frontier Custom House shall be valued in order to the assessment of duty: and in respect of goods passing such a Custom House, which are not so valued, in case of dispute respecting their value, the Collector of Customs of the station shall have power to call on the possessor of the goods to assign the value thereof: and thereupon the Collector of Customs shall have power, if he pleases, to purchase such goods on account of Government, at the value so assigned; paying for such goods forthwith, after deducting the duty due upon them according to the value so assigned.

Special Rule for Arms, Ammunition, and Sulphur.

XI. Arms, Ammunition, or Sulphur shall not be imported by sea into the Arracan, Pegu, Martaban, or Tenasserim Provinces; nor exported by land or by river into any Foreign Territory, from any of those Provinces; without a license from a Collector of Customs, or other Officer having charge of the collection of Customs; and such articles, if an attempt be made so to import or export them, shall be confiscated.

Commencement of Act.

XII. This Act shall commence and take effect from and after the First day of January, 1855.

SCHEDULE.

REFERRED TO IN SECTION IX. OF THIS ACT.

Enumeration of Goods.	*Rate of Export Duty.*
Rice	An anna a basket.
Paddy	Half an anna a basket.
Salt	Four annas a maund.
Betel Nut	Ten *per centum ad valorem.*
Nyapee; dried, smoked, salted, and preserved fish and fish roes	Ten *per centum ad valorem.*

Act VII., 1859, s. 1, repeals so much of Sections 2, 3, and 4 as prescribes rates of duty except as respects Salt and Opium.

ENGLISH LAW.—FINES, AND COMMON RECOVERIES.

ACT NO. XXXI. OF 1854.

[*Received assent of G. G. on the 16th December*, 1854.

1. Abolishes all real actions.
2. Empowers tenants in tail, &c., to dispose of or enlarge their estate by deed.

3, 5, 6. Empowers married women to dispose of, &c., her estate by deed acknowledged (5) with the concurrence of her husband and the deed to be acknowledged; or (6) if husband be lunatic, &c., or separated, husband's concurrence may be dispensed with.

4. Money to be invested in lands to be disposed of as the interest in lands might be.

7. Empowers Supreme Court to appoint Commissioners to take acknowledgments.

8, 9. Directs in what way acknowledgments of married woman shall be taken: and (9) what memorandum shall be signed by Judge, &c.

10. Deeds of acknowledgment to take effect from date of acknowledgment.

11. Signature and authority of Judge, &c., taking acknowledgment need not be proved, and acknowledgment to be deemed duly taken.

12. Saves all powers of alienation otherwise than by levying fine, &c., created prior to this Act.

13. In future, dispenses with the necessity of trustees to preserve contingent remainders.

14. Simple deed to be sufficient for conveyance of any interest in immoveable property.

15. No conveyance to operate tortuously.

16. Makes words of limitation unnecessary to pass the whole estate. Gift, &c., to a man, to be to him for ever, unless by construction a different intent appears.

17. *Bonâ fide* purchasers of trust property not bound to see to application of purchase money.

18. Act to apply only under English Law.

19. "Supreme Court" to include the Court of Straits' Settlements.

An Act to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land in cases to which the English Law is applicable.

Preamble.

Whereas it is expedient, in cases to which the English Law applies, to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land, and to exempt the purchasers of trust property from the liability to see to the application of the purchase money, it is enacted as follows:

Real actions, &c., abolished.

I. All real actions, fines and common recoveries, except such as may be in progress when this Act comes into operation, are abolished.

Tenants in tail may dispose of or enlarge his estate by simple deed, &c.

II. Every tenant in tail or other owner of an estate of inheritance less than an estate in fee simple, either at law or in equity, in any lands or hereditaments, not being under any dis-

ability, shall have power to dispose of such lands and hereditaments against the issue in tail, and all persons whose estates are to take effect after the determination or in defeazance of his own, or to enlarge his said estate into an estate in fee simple, by any deed declaring an intention so to dispose of the said lands or hereditaments, or to enlarge his estate therein; and every tenant; in tail or other owner of an estate of inheritance less than an estate in fee simple, who shall be under the disability of coverture, shall have power to dispose of or enlarge her said estate in manner aforesaid, by any deed declaring her intention so to do, and acknowledged by her as hereinafter mentioned. Provided that every disposition under this Section shall be subject to the rights of all persons in respect of estates prior to the estate tail or other estate of inheritance which is the subject of such disposition, and the rights of all other persons except those against whom such disposition is by this Act authorised to be made.

A married woman, with her husband's concurrence, empowered to dispose of her estate by deed acknowledged, &c.

III. Every married woman who, either alone or jointly with her husband, is possessed of or entitled to any estate or interest in or any power to be exercised over any lands or herditaments, which, but for the passing of this Act, she might have disposed of or extinguished by levying a fine, or suffering a recovery, or by joining in either of such assurances, shall have power by deed, to be acknowledged by her as hereinafter mentioned, to dispose of, release, surrender, or extinguish any such estate, interest, or power, as fully and effectually as if she were an unmarried woman.

Provision to apply to money subject to be invested in lands.

IV. The provisions of the last two preceding Sections shall, so far as circumstances will admit, apply to money subject to be invested in lands or other hereditaments.

Execution of deeds by married women.

V. No deed to be executed by a married woman under the provisions hereinbefore contained shall, so far as regards the interest of such married woman, be valid or effectual, unless her husband concur therein, nor unless the deed be acknowledged in manner hereinafter prescribed before a Judge of one of Her Majesty's Supreme Courts, or before a Judge or other covenanted officer of the

East India Company exercising civil jurisdiction in the place wherein such deed shall be acknowledged or before some Commissioner appointed either specially for the occasion, or appointed as a permanent Commissioner by one of Her Majesty's said Courts to take such acknowledgments.

If husband be lunatic, &c., Court may direct acknowledgment by deed without his concurrence, saving right of the husband, &c.

VI. If the husband of any married woman, desirous of enlarging, passing, or destroying any estate, interest, or power, by a deed to be acknowledged by her under this Act, shall be a lunatic, idiot, or of unsound mind, whether he shall have been found such by inquisition or not, or from any other cause shall be incapable of executing a deed, or if his residence shall not be known, or if he shall be in prison, or living apart from his wife either by mutual consent, or by sentence of divorce, or in consequence of his being transported beyond the seas, or from any other cause whatever, it shall be lawful for any of Her Majesty's said Courts, by an order to be made in a summary way upon the application of such married woman, and upon such evidence as to the Court shall seem meet, to dispense with the concurrence of her husband in the deed so to be acknowledged; and any deed to be executed or acknowledged by her in pursuance of such order shall (but without prejudice to the rights of her husband as then existing, independently of this Act) be as valid and effectual as if he had concurred therein.

Supreme Courts may appoint, for the purpose of taking such acknowledgment, permanent or special Commissioners.

VII. It shall be lawful for any of Her Majesty's said Courts to appoint, by its orders, under the seal of the Court, to be published in the Government Gazette, or otherwise as the Court shall direct, permanent Commissioners, either by name or office, and to appoint from time to time, under special Commissions, Special Commissioners, any one of whom shall be authorized and empowered, unless the Act is directed to be done before more than one, to take the acknowledgment of any deed by any married woman, who, by reason of her place of residence, or ill health, or other sufficient cause, shall be unable to make such acknowledgment before one of the Judges or other Officers described in the preceding Section.

Such married woman to be examined apart before Judge, &c., taking her acknowledgment.

VIII. Every such Judge, Officer, or Commissioner as aforesaid, before he shall receive the acknowledgment by any married woman of any deed to be acknowledged by her under this Act, shall examine her apart from her husband, touching her knowledge of such deed, and shall ascertain whether she understands its object, and freely and voluntarily consents to the same, and unless she appears to understand its object, and freely and voluntarily to consent to such deed, he shall not permit her to acknowledge the same, and in such case, such deed, so far as relates to the execution thereof by such married woman, shall be void.

Judge, &c., shall sign a memorandum of acknowledgment—form of it.

IX. Every Judge, Officer, or Commissioner, taking such acknowledgment under this Act, shall, at the time of taking the same, sign a memorandum to be endorsed on or written at the foot or in the margin of such deed, which memorandum at the foot or in the margin of such deed, which memorandum shall be to the following effect, namely: "This deed marked ( ) was this day produced before me and acknowledged by therein named, to be her act and deed, previous to which acknowledgment the said was examined by me separately and apart from her husband, touching her knowledge, of the contents of the said deed and her consent thereto, and appeared to understand the same, and declared the same to be freely and voluntarily executed by her."

Deed of married woman to take effect from time of acknowledgment.

X. Every deed executed by a married woman and hereby required to be acknowledged, shall, so far as regards the interest of such married woman, take effect only from the time of the acknowledgment thereof.

Deed when presumed to have been duly acknowledged.

XI. It shall not be necessary for any person producing a deed so acknowledged in any Court of Justice, to prove the hand-writing or authority of the Judge or other Officer, or the Commissioner taking such acknowledgment, but if such memorandum purports to have been in substance regularly made and signed, the deed shall be presumed to have been duly acknowledged by the party, until the contrary is shown.

XII. Nothing in this Act contained shall abridge, extend, or affect the powers of alienation or disposition, which any married woman might have exercised over any property or rights otherwise than by levying a fine or suffering a recovery, or by joining in one of such assurances before the passing of this Act.

Nothing in this Act to abridge the powers of alienation which a married woman possessed before.

XIII. In any deed or will executed after this Act comes into operation, and disposing of immoveable property situate in the territories in the possession and under the Government of the East India Company, wherein contingent estates are limited without the appointment of any trustees to preserve such contingent estates, the same shall be, to all intents and purposes, as effectually protected by the law, as if such trustees had been duly appointed.

Contingent estates in deeds or wills, without trustees to preserve, to be protected by the law, from destruction.

XIV. Any estate or interest in immoveable property, situate within the said territories, whether in possession, remainder, or reversion, may, in addition to any other mode of conveyance or release which is now valid, be conveyed, passed, or released by a simple deed, whether such deed operate under the Statute of Uses or not.

Estate may be conveyed, &c., by deed, though not operating under the Statute of Uses.

XV. No conveyance of any kind shall operate to destroy, impair, or affect any estate or interest which the conveying party has no right to destroy, impair or affect, or beyond the extent to which he may impair or affect the same.

No conveyance to operate tortuously.

XVI. It shall not be necessary in any deed relating to immoveable property situate within the said Territories, to be executed after the passing of this Act, to add words of limitation to heirs, when the intention is to give the absolute interest to a person and his heirs general; but a gift, grant, or other conveyance of immoveable property to, or in favour of any person, shall be taken to give him the entire and absolute interest in the nature of an estate in fee simple, unless such construction is rendered inadmissible by the other contents of the deed; and when in any deed or will executed after the passing of this Act any property

Words of limitation not necessary in a deed, to give estate by inheritance.

Estate limited to heirs shall not unite with a prior life estate.

is given to a person for life or for other freehold interest, and afterwards in the same deed, or will, is limited to his heirs or heir special, the estates shall not unite, but the limitation to the heirs shall be a limitation of an estate to be taken by the heirs by purchase.

Bonâ fide purchaser not required to see to application of trust-money in any case.

XVII. When any property is sold, the proceeds of which are subject to any trust, the *bonâ fide* purchaser of the property shall not in any case be bound to see to the application of the purchase-money to the purposes of the trust.

Act to apply only to cases governed by English Law.

XVIII. Nothing in this Act contained shall extend to any case to which the English Law is not applicable.

Interpretation.

XIX. The term "Her Majesty's Supreme Courts" shall include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.

MADRAS.—TORTURE.

ACT No. XXXII. OF 1854.

[*Received assent of G. G. on the 16th December*, 1854.

Recites appointment of Commissioners to enquire concerning alleged use of Torture.

1. Empowers the Commissioners to summon witnesses, &c., require production of books, &c.

2. Subjects persons summoned who make default of duty under this Act, to same punishment as witnesses who make default on process of Supreme Court.

3. Extends provisions of ss. 8 and 9 of Act XXXVII., 1850, to the Torture Commission.

4, 5. Empowers the Commissioners to direct examination of persons at a distance under interrogatories to be sent by letter; and (5) makes it obligatory to appear and answer such interrogatories.

6. Authorizes the payment of expenses of witnesses.

7. Witness not excused from answering on ground of tendency of answer to criminate him; but answer not to be used against him.

8. Empowers commissioners to administer oath, &c.

9. Extends penalty of perjury to false evidence.

10. Limitations of action against Commissioner to be six months.

11. On death, &c., of one Commissioner survivor may act or new Commissioner may be appointed.

An Act to facilitate inquiries respecting the alleged use of Torture in the Presidency of Fort St. George.

Of temporary use and now obsolete.

JUDICIAL LANGUAGE.

Act No. XXXIII. of 1854.

[*Received assent of G. G. on the 23rd December*, 1854.

Recites expediency of extending provisions of Act XII., 1843.

1, 2, 3. Decisions, sentences and final orders of all Judicial Officers with reasons to be written in vernacular of such officers and signed by them: (2) also the points to be established, (3) but not necessary to be done in open Court.

4. Non-compliance with this Act not to be a ground of appeal against decision.

5. Saves Act XII., 1843.

An Act to extend the provisions of Act No. XII. of 1843.

Preamble.

Whereas it is expedient that every decision, sentence, or final order, made or passed by any Officer of the East India Company acting judicially, together with the reason for the same, should be written in the Vernacular language of the officer by whom the same is made or passed, and should be signed by him at the time of pronouncing such decision, sentence, or order, it is enacted as follows:

Decisions to be written in the Vernacular language of the Judge, and to be signed by him and filed.

I. Every decision, sentence, or final order, which shall hereafter be made or passed by any Officer of the East India Company acting judicially, together with the reasons for making or passing the same, shall be written in the Vernacular language of such Officer, and shall be dated and signed by such Officer in Court at the time of his making or passing the same, and the original shall be filed with the record or proceedings in the case, and a translation thereof, where the original is recorded in a different language to that in ordinary use in proceedings before

Translation when to be recorded.

such Officer, shall be incorporated in the decree, or record of the decision, sentence, or order.

Points to be established shall be written in the Vernacular language of the Judge and signed by him in Court.

II. Whenever, in any suit before any Officer of the East India Company acting judicially, the points to be established by the parties respectively, or on which proof is required by the Court, are directed by law to be recorded, the points shall be written in the Vernacular language of such Officer, and the writing shall be dated and signed by him in Court at the time of his announcing the points to the parties; and if the Vernacular language of such Officer be different from the language in ordinary use in proceedings before the Court, a translation shall be incorporated in the record.

Translation, when to be recorded.

Decisions not required to be written in open Court.

III. Nothing in this Act, or in Act No. XII. of 1843, shall be so construed as to require Officers of the East India Company acting judicially to write their decisions, sentences, injunctions, or orders, or to record the point or points to be established by the parties respectively under the last preceding Section in open Court.

No appeal for non-compliance with this Act or Act No. XII. of 1843.

IV. No appeal shall lie from any decision, sentence, injunction, or order, nor shall the same be reversed or remanded, upon the ground of non-compliance with the provisions of this Act, or of Act No. XII. of 1843. But the Appellate Court may, by precept, require the Officer of the Lower Court to comply with the provisions of this Act, or of Act No. XII. of 1843, and to certify his reasons for any such decision, sentence, or order, to the Appellate Court; and any such Appellate Court may, if it deem necessary for the ends of justice, postpone its final decision in the appeal until such precept shall have been returned.

Appellate Court by precept may require compliance.

Saving of provisions of Act No. XII. of 1843.

V. Nothing in this Act contained shall be deemed to repeal any of the provisions of Act No. XII. of 1843.

Repealed by Act X., 1861, as respects proceedings under Code of Civil Procedure.

ELECTRIC TELEGRAPHS.

ACT No. XXXIV. OF 1854.

[*Received assent of G. G. on the 23rd December*, 1854.

1. East India Company to have exclusive privileges of establishing Electric Telegraphs in India; but G. G. in C. may grant license on conditions.

2, 3. Persons establishing Electric Telegraphs without authority to be liable to specified penalty, and (3) also persons using unauthorised Telegraph.

4. Empowers G. G. in C. to take possession of private lines of Telegraph on emergency.

5. G. G. in C. may establish Electric Telegraph on line of Railway Company.

6. Empowers G. G. in C. to make rules for conduct of Electric Telegraphs.

7. Government not to be responsible for loss occasioned by failure to transmit, or erroneous transmission of Telegraphic messages.

8. Persons unlawfully entering or refusing to quit Telegraph office to be liable to penalty.

9. Persons wilfully causing interruption to the transmission of signals, &c., by cutting line, &c., to be liable to penalty.

10. Person damaging Telegraph posts or portion of line liable to penalty.

11. Person fraudulently or maliciously making away with, &c., message, or disclosing it, liable to penalty.

12, 13, 14. Person in Telegraph Department, by drunkenness, &c., endangering transmission of message, &c., liable to penalty; or (13) fraudulently transmitting message on which charge is not paid, or (14) false and fabricated message, to be liable to penalty.

15, 16. Persons not being European British subjects, and (16) European British subjects to be punishable by Magistrate within whose jurisdiction the offence is committed.

17. Conviction not to be quashed, except on the merits. Depositions to be returned with conviction.

18, 19. Empowers Magistrates to refer case for trial to Assistant or Deputy, or (19) Assistant or Deputy may try without reference if authorized by Government.

20. Fines leviable by distress and sale of goods.

21. Servants of E. I. C. in the Electric Telegraph Department in Foreign Territory punishable for offences, and where.

22. Interprets words "Magistrate" and "Fine."

23. G. G. in C. may frame rules for conduct of Electric Telegraph.

An Act for regulating the establishment and management of Electric Telegraphs in India.

Preamble.

Whereas it is expedient that provision should be made for regulating the establishment and management of lines of Electric Telegraph in India, it is enacted as follows:

The E. I. Company to have the exclusive privilege of establishing Electric Telegraph.

I. Within the Territories in the possession and under the Government of the East India Company, the said East India Company shall have the exclusive privilege of establishing lines of Electric Telegraph. Provided that the Governor General of India in Council may grant a license to any person or Company to establish a line of Electric Telegraph within any part of such Territories, which license shall be revocable on the breach of any of the conditions therein contained.

Proviso.

Penalties for establishing or maintaining unauthorized Electric Telegraphs.

II. Whoever shall, otherwise than under a license duly granted as aforesaid, establish or after revocation of such license maintain a line of Electric Telegraph within the said Territories, shall be liable to a fine not exceeding One Thousand Rupees, and for every week during which such line shall be maintained shall be liable to a further fine not exceeding Five Hundred Rupees.

Penalties for using or working such Telegraphs.

III. Whoever shall use a line of Electric Telegraph, knowing or having reason to believe that it is an unlicensed line, for the purpose of sending or receiving messages, or shall perform any services incidental thereto, shall, for every such offence, be liable to a fine not exceeding Fifty Rupees.

Government may take possession of Telegraphs established by license.

IV. The Governor General of India in Council may, on the occurrence of any public emergency, take temporary possession of any line of Electric Telegraph established under license within the said Territories.

Government may establish Telegraph on land of Railway Company.

V. Any Railway Company, on being required so to do by the Governor General of India in Council, shall permit the Government to establish upon the land of such Company adjoining the line of Railway a line of Electric Telegraph, and shall give every reasonable facility for establishing and using the same.

Governor General in Council to frame rules for the conduct of Government Telegraphs.

VI. The Governor General of India in Council may from time to time frame rules for the conduct of Electric Telegraphs established by Government not inconsistent with this Act, and

therein prescribe the regulations, conditions, and restrictions according to which all messages and signals shall be transmitted.

Government not responsible for loss or damage.

VII. The Government shall not be responsible for any loss or damage which may occur in consequence of any person employed by the Government in the Electric Telegraph Department failing to transmit with accuracy any message entrusted to him for transmission; and no such person shall be responsible for any such loss or damage, unless he shall cause the same negligently, maliciously, or fraudulently.

No Person to intrude into a Telegraph Office.

VIII. Whoever shall without permission enter into a Government Telegraph Office, or shall refuse to quit the same on being requested to do so by any officer or servant employed therein, or shall wilfully obstruct or impede any such officer or servant in the performance of his duty, shall be liable to a fine not exceeding One Hundred Rupees.

Penalties for cutting the line.

IX. Whoever shall wilfully cause or attempt to cause any interruption to the transmission of signals along a line of Electric Telegraph established by the Government, by cutting or injuring the wire, or by injuring any portion of the line, or any instrument or apparatus, or by any other means, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Injuring posts, &c.

X. Whoever shall wilfully or negligently damage or injure any post or any portion of the line of such Electric Telegraph, shall be liable to a fine not exceeding fifty rupees.

Penalties for fraudulently omitting to transmit messages or for disclosing secret messages.

XI. Whoever, being in the employ of the Government in the Electric Telegraph Department, shall fraudulently or maliciously secrete, make away with, alter, or omit to transmit any message which he may have received for transmission, or shall fraudulently or maliciously disclose any message so received by him and directed to be kept secret, shall be liable to be imprisoned, with or without hard labour, for a term not exceeding two years, or to fine, or to both.

XII. Whoever being in such employ shall be guilty of any act of drunkenness, carelessness, or other misconduct, whereby the transmission or delivery of any message shall be endangered, or who shall loiter or make delay in the transmission or delivery of any message shall be liable to a fine not exceeding one hundred rupees.

Penalty for misconduct.

XIII. Whoever being in such employ shall transmit by the Electric Telegraph any message upon which the prescribed charge has not been paid, intending thereby to defraud the Government, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalties for sending messages without payment to Government.

XIV. Whoever shall fraudulently or maliciously transmit or cause to be transmitted by an Electric Telegraph established by Government a message which he knows to be false or fabricate, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalties for transmission of fabricated messages.

XV. Any person not being a European British Subject, who shall beyond the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature commit any of the offences mentioned in Sections IX., XI., XIII., and XIV of this Act, shall be punishable upon conviction by any Magistrate within whose jurisdiction the offence shall be committed.

Persons other than European British subjects liable to be punished.

XVI. Any person, whether European British subject or not, who shall be guilty of any offence for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable for such offence by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras, and Bombay, or for any of the Settlements of Prince of Wales' Island, Singapore, and Malacca, Magistrate, Joint Magistrate, or person lawfully exercising the power of Magistrate, within whose jurisdiction the offence shall be committed; and any person hereby made punishable by a Justice of the Peace, shall be punishable upon summary conviction.

Fines how to be recovered.

XVII. No conviction, order, or judgment of any Justice of

Conviction to be quashed on merits only. Form of conviction, &c.

the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order or judgment, in obedience to any writ of *certiorari*; and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Magistrate may refer charge to his Assistants

XVIII. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only, to any of his Assistants or to any Deputy Magistrate lawfully appointed to exercise the powers of a Covenanted Assistant; and in such case every such Assistant or Deputy Magistrate may exercise all the powers vested in a Magistrate subject to all the rules applicable to criminal cases deputed to such Assistants or Magistrates acting judicially.

Government may authorize Assistant and Deputy Magistrates to exercise certain powers

XIX. The local Government may give general authority to any such Assistant or Deputy Magistrate to exercise, without reference by a Magistrate, any of the powers which they are hereby rendered competent to exercise upon reference by a Magistrate, subject to appeal to the Magistrate from any conviction by such Assistant or Deputy Magistrate, within one month from the date of the conviction. Provided that a Magistrate may at any time call from any of his Assistants, or from any Deputy Magistrate subordinate to him, any case pending before such Assistant or Deputy Magistrate.

Fines how levied

XX. All fines imposed under the authority of this Act, for offences punishable by fine only, by any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, or by any Assistant to a Magistrate, or Deputy Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named Officers; and in case any such fine shall not be forthwith paid, any such Officer may

order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless such party shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such Officer may take such Security by way of recognizance or otherwise; and if, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer by warrant under his hand may commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labor, according to the discretion of such Officer, for any term not exceeding two calendar months where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months where the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment, if not sufficient distress, &c.

XXI. If any servant of the East India Company, employed in the Electric Telegraph Department within the dominions of any Foreign Prince or State in alliance with the said Company in which an Electric Telegraph is established by the said Company, shall, within the dominions of such Prince or State, commit any act hereby prohibited, or omit to do any act hereby required to be done by any person similarly employed within the territories under the Government of the said Company, such Servant of the said Company shall be guilty of an offence, and on conviction thereof shall be punished in the same manner as if such act had been done or omitted within the said last-mentioned territories; and every such person may be tried, convicted, and punished, either by fine or otherwise, according to the nature of the offence, by any Court or Officer duly empowered by the Governor General of India in Council to

Authority to punish Servants of the East India Company who commit offence, against this Act in Foreign territory.

take cognizance of offences committed in such dominions by servants of the East India Company, or by any Court or Magistrate, or other competent Officer in any part of the territories within the Government of the East India Company, in the same manner as if the offence had been committed in such part of the said territories.

Explanation of terms.

XXII. The word "Magistrate" in this Act shall include Joint Magistrates and persons lawfully exercising the powers of Magistrates; and the word "Fine" shall include a penalty or forfeiture.

Government to frame rules for Telegraphs established by license.

XXIII. It shall be lawful for the Governor General in Council to frame rules for the conduct of any Electric Telegraph established by license under this Act, and to declare from time to time what portions of this Act shall be applicable to such Telegraph and to persons using the same or employed in connexion therewith.

Repealed by Act VIII., 1860, s. 1, except as to telegraph licenses established under this Act.

GOVERNOR GENERAL.

Act No. I. of 1855.

[*Passed on the 2nd February*, 1855.

Recites expediency of Governor General's visiting the Neilgherries, and other parts of India.

1. Empowers the Governor General alone to exercise all the powers of G. G. in C.

2. Act to take effect from date of notification in Gazette.

An Act for providing for the exercise of certain powers by the Governor General during his absence from the Council of India.

Obsolete.

EVIDENCE.

Act No. II. of 1855.

[*Passed on the 2nd February*, 1855.

Recites expediency to improve Law of Evidence.

1. Repeals Act 10, 1835.

2, 3, 4, 5, 6. Courts, &c., to take Judicial notice of Regulations passed before 22nd of April, 1834, and of all Acts heretofore or hereafter passed; (3) of

Acts of Parliament, declared public: printed copy of private Acts; (4) of its own members, &c.; (5) of the names, titles and authorities of the G. G. and other specified officers; (6) of the divisions of time, geographical divisions, war and peace, &c., &c.

7, 8. Government Gazette, &c., to be received as authentic; and as (8) proof of proclamations, &c., contained therein.

9. Recitals in Acts to be proof of facts recited.

10. Gazette, &c., to be p. f. evidence of the authority under which advertisement purports to be published.

11. Courts may refer to Books, Maps, &c., on matters of public history, &c.

12. Foreign Codes and Laws may be proved by books purporting to be published by authority.

13. Maps published by Government, &c., to be p. f. evidence.

14. Persons incompetent to testify—(1) Children under 7 years of age, &c. (2) Insane persons, &c.

15, 16, 17. Oath and solemn affirmation to be dispensed with in certain cases and simple affirmation substituted; (16) affidavit to be made in like manner; (17) and false affirmation to be punished as perjury.

18. Removes incompetency by reason of interest.

19. Parties to suits liable to be examined and to produce documents.

20. Husband and wife competent to be witnesses for or against each other, &c.

21. Production of documents relating to affairs of State not compellable, &c.

22. Parties not compellable to produce documents not relevant to case, &c., nor confidential writings, &c., unless when they are voluntary witnesses.

23. Witness summoned to bring documents must bring them; their admissibility to be determined by the Court and Law.

24. Barristers, &c., not to disclose communications made by clients, &c., but privilege of withholding may be waived by client.

25. Persons present in Court bound to give evidence, &c., though not subpœnaed.

26. Dispenses with attendance of persons where only document wanted.

27, 28. Establishes the rules of evidence on plea side on all sides of Supreme Court; (28) except in cases of treason, &c.

29. Dying declarations admissible, though the declarant expected to recover.

30. Witnesses may by leave of Court be cross-examined by party calling them.

31. Former statements of witnesses as to certain facts may be used as evidence, &c.

32. Witness not to be excused from answering what may criminate himself, but answer not to be used against him.

33. Witness may be asked if he has been convicted, &c.

34. Witness may be examined as to former statement, and contradicted, &c.

35. Copies by copying machine to be deemed correct.

36 If original document out of reach of process, order may be made for receiving secondary evidence.

37, 38. Attested document provable as if unattested, except when; and (38) admission of execution, to avail, when.

39. Statement, &c., made against interest, admissible, when.

40. Entries according to usual course of business admissible, for what purpose, and when.

41. Receipts to be evidence against, and whom.

42. Receipts of agents admissible against principal, when

43, 44. Books on proof of being regularly kept admissible as corroborative evidence; (44) also certificates of shares, bills of lading, &c.

45, 46 By what writing witnesses may refresh their recollections; and (46) when by copies.

47. In cases of pedigree, declarations of illegitimates admissible.

48. Comparison of Handwritings, &c., admissible on question of genuineness.

49. Power of attorney purporting to be duly executed to be received as such, when.

50, 51. Letter book and messenger's Receipt book to be evidence of contents and dispatch of letter, when.

52. Repeals part of S. 6, Act 15, 1852.

53, 54, 55 Extends S. 16 of Act 16, 1854; and (54) part of S. 17 of Act 6, 1854; and (55) S. 33 of same Act.

56. Official documents made evidence by Statute, &c., to be admissible when, without proof of seal, &c.

57. Improper reception or rejection of evidence not ground for new trial, &c., where rejected evidence sufficient.

58. Evidence admissible independent of this Act, not rendered inadmissible by it.

An Act for the further improvement of the Law of Evidence.

Preamble.

Whereas it is expedient further to improve the Law of Evidence, it is enacted as follows:

Act repealed.

I. Act No. X. of 1835 is hereby repealed.

Judicial notice to be taken of all Acts and Regulations.

II. Within the territories in the possession and under the Government of the East India Company, all Courts of Justice and all persons having by law or consent of parties authority to take evidence shall take judicial notice of all Regulations and Ordinances made before or on the 22nd day of April, 1834, by the Governor-General in Council of the Presidency of Fort William in Bengal, by the Governor in Council of the Presidency of Fort St. George, or by the Governor in Council of the Presidency of Bombay, and having the force of Law in any part of the said territories, and of all Laws and Regulations heretofore made

by the Governor General of India in Council, and of this Act, and of all Acts and Regulations heretofore made, or hereafter to be made by the Governor General of India in Council, constituted for the purpose of making Laws and Regulations, whether the same be of a public or of a private nature.

Judicial notice to be taken of public Acts of Parliament.

III. All Courts and persons aforesaid shall take judicial notice of all public Acts of Parliament and of all local and personal Acts declared by Parliament to be public and to be judicially noticed, and shall admit as *primâ facie* evidence of any private Act of Parliament, any copy thereof purporting to be printed by the King's Printer.

What shall be *primâ facie* proof of a private Act.

Judicial notice to be taken by Court of its own officers, &c.

IV. Every Court shall take judicial notice of its own Members and Officers respectively, and of their deputies and subordinate Officers or Assistants, and also of all Officers acting in execution of its process, and of all Advocates, Attornies, Proctors, Vakeels, Pleaders, and other persons authorized by Law to act before it.

Judicial notice to be taken of the names, titles, &c., of certain persons.

V. All Courts and persons aforesaid shall take judicial notice of the names, titles, and authorities of the persons filling for the time being any one of the following offices in any part of the said territories:—Governor General, Governor, Lieutenant Governor, or Deputy Governor, Secretary or Under Secretary to Government, Commander-in-Chief, Bishop, Member of Council, Legislative Councillor, Judge of any of Her Majesty's Courts or of any Sudder Court, or of any Court of Judicature hereafter to be constituted in the said territories, to or in which the powers of any of Her Majesty's Supreme Courts may be transferred or vested.

Judicial notice to be taken of division of time, place, &c.

VI. All such Courts and persons aforesaid shall take judicial notice of all divisions of time, of the geographical divisions of the world, of the territories under the dominion of the British Crown, of the commencement, continuation and termination of hostilities between the British Crown and any other State, and also of the existence, title and national flag of every Sovereign or State recognized by the British Crown. In all the above cases,

such Court or person may resort for its aid to appropriate Books or documents of reference.

Proof of "Government Gazette."

VII. Any "Government Gazette" of any Country, Colony, or Dependency under the dominion of the British Crown, may be proved by the bare production thereof before any of the Courts or persons aforesaid.

Proof of Proclamations Acts of State, &c.

Proclamations, &c., when to be *primâ facie* proof of fact.

VIII. All Proclamations, Acts of State, whether Legislative or Executive, nominations, appointments, and other official communications of the Government appearing in any such "Gazette," may be proved by the production of such "Gazette," and shall be *primâ facie* proof of any fact of a public nature which they were intended to notify.

Recital in Act of a fact of a public nature to be *primâ facie* proof.

IX. Any recital contained in any Act of the Governor General of India in Council, constituted for the purpose of making Laws and Regulations hereafter to be passed of any fact of a public nature, shall be deemed, before all such Courts and persons, to be *primâ facie* evidence of the truth of the fact recited.

"Gazette," &c., containing advertisement purporting to be published by authority, to be *primâ facie* evidence of such authority.

X. The "Gazette" or Newspaper containing any advertisement purporting to be published by virtue of any public Statute, Act, Regulation or Ordinance, or of any Rule or Order of a Court of Justice or of any Board or Officer of Revenue, may be received by any such Courts or persons as aforesaid as *primâ facie* evidence that such advertisement was published duly under the authority from which it purports to proceed.

Books, Maps, &c., to be evidence in matters of public history, &c.

XI. All Courts and persons aforesaid may, on matters of public History, Literature, Science, or Art, refer, for the purposes of evidence, to such published Books, Maps, or Charts as such Courts or persons shall consider to be of authority on the subject to which they relate

What Books, &c., shall be evidence of Foreign Law.

XII. Books printed or published under the authority of the Government of a Foreign Country and purporting to contain the Statutes, Code, or other written Law of such Country, and

also printed and published Books of reports of decisions of the Courts of such Country, and Books proved to be commonly admitted in such Courts as evidence of the Law of such Country, shall be admissible before any such Courts or persons as aforesaid as evidence of the Law of such Foreign Country.

Government or public Maps when to be *primâ facie* proof.

XIII. All Maps made under the authority of Government, or of any public municipal body, and not made for the purpose of any litigated question, shall *primâ facie* be deemed to be correct, and shall be admitted in evidence without further proof.

Persons incompetent to testify.

XIV. The following persons only shall be incompetent to testify:—

Children.

1. Children under seven years of age, who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly.

Insane persons.

2. Persons of unsound mind, who, at the time of their examination, appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly; and no person who is known to be of unsound mind shall be liable to be summoned as a witness, without the consent previously obtained of the Court or person before whom his attendance is required.

Not to be summoned without leave of Court.

Children and persons of defective religious belief to testify on simple affirmation.

XV. Any person who, by reason of immature age or want of religious belief, or who by reason of defect of religious belief, ought not, in the opinion of such Court or person, to be admitted to give evidence on oath or solemn affirmation, shall be admitted to give evidence on a simple affirmation, declaring that he will speak the truth, the whole truth, and nothing but the truth.

Provisions as to witness to apply to affidavits, &c.

XVI. The Provisions in the last preceding Section as to witnesses shall apply to testimony given by affidavit or otherwise in writing, as well as to testimony orally delivered.

Punishment for giving false evidence.

XVII. Any such witness wilfully giving false evidence shall be subject to be proceeded against in like manner, and to suffer, if convicted, the same

punishment as if he had been sworn and had committed wilful and corrupt perjury. The indictment or charge shall be varied so as to meet the case.

No incompetency from interest in the suit.

XVIII. No person shall, by reason of any interest in the result of any suit or of any interest connected therewith or by reason of relationship to any of the parties thereto, be incompetent to give evidence in such suit.

Party to suit may be examined as a witness.

XIX. Any party to a civil suit or other proceeding of a civil nature shall be competent and may be compelled to give evidence as a witness therein either on his own behalf or on behalf of any other party to the suit or proceeding, and also to produce any document in his possession or power, in the same manner as if he were not a party to the suit or proceeding. Provided that no Court or person as aforesaid, other than Her Majesty's Supreme Courts of Judicature, shall compel the attendance of any party to such suit or proceeding for the purpose of giving evidence therein, except under and subject to the rules prescribed in that behalf in Act XIX. of 1853.

Proviso.

Husband or wife giving evidence.

XX. A husband or wife shall in every civil proceeding be competent to give evidence for or against each other. Provided that any communication made by husband or wife to the other during their marriage shall be deemed a privileged communication and shall not be disclosed without the consent of the person making the same, unless such communication shall relate to a matter in dispute in a suit pending between such husband and wife.

Proviso.

Witness, &c., not bound to produce document relating to State affairs.

XXI. A witness, whether a party or not, shall not be bound to produce any document relating to affairs of State, the production of which would be contrary to good policy, nor any document held by him for any other person who would not be bound to produce it if in his own possession.

Party to suit not bound to produce certain documents.

XXII. A witness being a party to the suit shall not be bound to produce any document in his possession or power which is not relevant or material to the case of the party requiring its pro-

duction, nor any confidential writing or correspondence which may have passed between him and any legal professional adviser.

Unless he offers himself as a witness.

If any party however offer himself as a witness, he shall be bound to produce any such writing or correspondence in his custody, possession, or power, if relevant or material to the case of the party requiring its production.

Witness summoned to produce a document must bring it into Court. Mode of determining objection to production.

XXIII. Every witness summoned to produce a document shall, if the same be in his custody, possession, or power be bound to bring it, or cause it to be brought into Court, although there be a valid objection to the right of the party calling for it to compel its production or to the reading or putting it in as evidence, or to the disclosure of the contents thereof, the validity of any such objection made by the person producing the document shall be determined by the Court; and for the better determination thereof, it shall be lawful for the Court to receive any admissible evidence, which the person producing the document may give respecting it, and it shall also be lawful for the Court, except in the case of any document relating to affairs of State, to inspect the document, and, if necessary, to call to its assistance any person whom it may appoint to interpret the same. Such person, however, shall be previously sworn truly to interpret the same to the Court alone, and not to disclose the contents thereof except to the Court, unless the Court shall order the document to be given in evidence.

Document relating to affairs of State.

Professional communications.

XXIV. A Barrister, Attorney, or Vakeel shall not, without the consent of his client, disclose any communication made by the client to him in the course of his professional employment, nor any advice given by him professionally to his client, nor the contents of any document of his client, the knowledge of which he shall have acquired in the course of his professional employment. The privilege, however, is that of the client, and if any party to a suit shall give evidence therein, at his own instance, he shall be deemed thereby to have waived his privilege, and to have consented to the disclosure by such Barrister, Attorney, or Vakeel, of any matter as aforesaid, which may be relevant,

and which the Barrister, Attorney, or Vakeel would have been bound to disclose, but for the privilege of his client, and the Barrister, Attorney, or Vakeel shall be bound upon examination to disclose any such matter.

Persons present in Court to give evidence, &c., though not summoned.

XXV. Any person present in Court, whether a party or not, may be called upon and compelled by the Court to give evidence, and produce any document then and there in his actual possession, or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence, or to produce such document, and may be punished in like manner for any refusal to obey the order of the Court. [Repealed by Act X., 1861, so far as applicable to proceedings under Act VIII., 1859.]

Persons summoned to produce a document not bound to attend personally.

XXVI. Any person, whether a party to the suit or not, may be summoned to produce a document without being summoned to give evidence, and any person summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same. [Repealed by Act X., 1861, so far as applicable to proceedings under Act VIII., 1859.]

Rules of Evidence in Supreme Courts on Ecclesiastical and Admiralty sides.

XXVII. The Rules of Evidence in Her Majesty's Supreme Courts as to matters of Ecclesiastical or Admiralty Civil Jurisdiction, shall be the same as they are on the Plea side of the said Courts.

Evidence of one witness sufficient proof.

Proviso.

XXVIII. Except in cases of treason, the direct evidence of one witness, who is entitled to full credit, shall be sufficient for proof of any fact in any such Court or before any such person. But this provision shall not affect any rule or practice of any Court that requires corroborative evidence in support of the testimony of an accomplice or of a single witness in the case of perjury.

Dying declarations when admissible.

XXIX. Where dying declarations are evidence they shall be received, if it be proved that the deceased was at the time of making the declaration, and then thought himself to be in danger

of approaching death, though he entertained, at the time of making it, hope of recovery.

Party allowed to cross-examine and discredit his own witness.

XXX. The party at whose instance a witness is examined may, with the permission of such Court or person, cross-examine such witness, to test his veracity, in the same manner as if he had not been called at his instance, and may be allowed to show that the witness has varied from a previous statement made by him.

Former statement admissible to corroborate a witness.

XXXI. In order to corroborate the testimony of a witness, any former statement made by such witness, relating to the same fact, at or about the time when the fact took place, or before any authority legally competent to investigate the fact, shall be admissible, and for that purpose a copy of any deposition or statement taken before any Court, Judge, Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate, or before a Commissioner or Superintendent for the Suppression of Thuggee or Dacoity in the discharge of his duty, shall, if certified by such Court, Judge or other officer above-mentioned, under his hand or the Official Seal of the Court, or under the hand or Official Seal of such Judge, to be a true copy of such deposition or statement, without further proof, be received as *primâ facie* evidence that such deposition or statement was made, and that it was made at the time and place, and under the circumstance, if any, which shall be stated in the certificate or on the face of the deposition or statement.

Witness bound to answer criminating questions.

XXXII. A witness shall not be excused from answering any question relevant to the matter in issue in any suit or in any Civil or Criminal proceeding, upon the ground that the answer to such question will criminate, or may tend, directly or indirectly, to criminate such witness, or that it will expose, or tend, directly or indirectly, to expose such witness to a penalty or forfeiture of any kind.

Proviso.

Provided that no such answer, which a witness shall be compelled to give, shall, except for the purpose of punishing such person for wilfully giving false evidence upon such examination, subject him to any arrest or prosecution, or be used as evidence against such witness in any criminal proceeding.

Witness may be examined as to conviction for felony.

XXXIII. A witness in any cause may be questioned as to whether he has been convicted of any felony or misdemeanour, and upon being so questioned, if he either denies the fact or refuses to answer, it shall be lawful for the opposite party to prove such conviction.

Cross-examination as to previous written statements.

XXXIV. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the cause, without such writing being shown to him; but if it is intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him.

Proviso.

Provided always, that it shall be competent for the Judge at any time during the trial, to require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he shall think fit.

Copy of a document made by a copying machine to be deemed correct.

XXXV. An impression of a document made by a copying machine shall be taken without further proof to be a correct copy.

Admission of secondary evidence where original document is out of the reach of process.

XXXVI. When an original document is out of the reach of the process of the Court it shall be lawful for the Court, on application to it in any Civil suit or proceeding, and on notice to the opposite party at a reasonable time before the hearing, to make an order for the reception of secondary evidence of its execution and contents.

When attested document may be proved as if unattested.

XXXVII. An attested document may be proved as if unattested, unless it be a document to the validity of which attestation is requisite.

Admission *primâ facie* proof of an attested document.

XXXVIII. The admission of a party to an attested instrument of its execution by himself shall be as against him sufficient *primâ facie* proof of such execution of it, though it be an instrument which is required by law to be attested.

XXXIX. Any entry or statement, which would be admissible

Entry made against interest or in course of business when admissible in life-time of person making it.

in evidence after the death of the person who made it, on the ground of its having been made against the interest of the person making it, or on the ground of its having been made in the ordinary course of business, shall be admissible, though the person who made it be not dead, if he is incapable of giving evidence by reason of his subsequent loss of understanding, or is at the time of the trial or hearing *bonâ fide* and permanently beyond the reach of the process of the Court, or cannot after diligent search be found.

Entry in course of business, when admissible for purpose of identification.

XL. Any entry in any books proved to have been regularly kept in the course of business or in any public office, so far as such entry merely refers to and tends to identify by name, description, number or otherwise any Bank Notes or other Securities for the payment of money, or other property, and the payer-in or receiver of them, shall, in any case where such identification is necessary to be proved, be admissible in evidence for that limited purpose if it shall appear to have been made at or about the time of the transaction to which it relates, though the person who made it, or he on whose information it was made, is alive and capable of being produced as a witness.

Receipt when evidence against person other than the giver.

XLI. Any receipt in writing, acknowledging the receipt of any money, valuable securities or goods, shall, on proof of the execution thereof, be admissible in evidence before such Court or person aforesaid, not only against the party giving it, but also against any person in whose favor such receipt would operate as a discharge, or to whom it would render the person giving it liable for the money, security or goods acknowledged to have been received.

Receipt of Agent.

XLII. Whenever a receipt would be admissible under the preceding Section, if given by a principal, a receipt given by an agent or servant of such principal shall in like manner be evidence upon proof of the authority to give such receipt.

XLIII. Books proved to have been regularly kept in the

Books kept in course of business or in a public office admissible as corroborative evidence.

course of business or in any public office shall be admissible as corroborative, but not as independent proof of the facts stated therein.

Documents admissible as corroborative evidence.

XLIV. The following documents may be admitted as corroborative evidence:—Certificates of shares, and of registration thereof, bills of lading, invoices, account sales, receipts usually given on the payment, deposit or delivery of money, goods, securities, or other things, provided they be proved to have been given in the ordinary course of business.

Refreshing memory of witness.

XLV. A witness shall be allowed before any such Court or person aforesaid to refresh his memory by any writing made by himself or by any other person at the time when the fact occurred, or immediately afterwards, or at any other time when the fact was fresh in his memory, and he knew that the same was correctly stated in the writing. In such case the writing shall be produced and may be seen by the adverse party, who may, if he choose, cross-examine the witness upon it.

Court may permit a copy of document to be used to refresh memory.

XLVI. Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document, provided the Court or person, under the circumstances, be satisfied that there is sufficient reason for the non-production of the original.

Declarations of illegitimate persons, &c., admissible in questions of pedigree.

XLVII. In cases of pedigree, the declarations of illegitimate members of the family, and also of persons who though not related by blood or marriage to the family, were intimately acquainted with its members and state, shall be admissible in evidence after the death of the declarant, in the same manner and to the same extent as those of deceased members of the family.

Comparison of handwriting, &c.

XLVIII. On an inquiry whether a signature, writing or seal is genuine, any undisputed signature, writing or seal of the party whose signature, writing or seal is under dispute, may be compared with the disputed one, though such signature, writing or seal be on an instrument which is not evidence in the cause.

Proof of power of Attorney.

XLIX. Any Power of Attorney, which has been executed at a place distant more than 100 miles from the place wherein the action, suit or proceeding is depending, may be proved by the production of it, without further proof, where it purports, on the face of it, to have been executed before, and authenticated by a Notary Public or any Court, Judge, Consul or Magistrate.

Proof of dispatch of letter by Letter Books.

L. Whenever it is proved that a Letter Book is kept, and that, according to the usual course of business, letters are copied into such book and dispatched, and the Letter Book is produced, and it is proved that the letter was dispatched according to the usual practice, to the best of the knowledge and behalf of the witness, having reasonable ground for forming that belief, the Court may presume the dispatch of that letter according to the usual course of business.

What to be *primâ facie* proof of receipt of letter.

LI. Any book proved to have been kept for marking the dispatch and receipt of letters containing an entry of the dispatch of a letter, and an acknowledgment of the receipt of such letter, shall, on proof that such entry was made in the usual course of business, be *primâ facie* evidence of the receipt of such letter.

Repeal of part of Section VI. of Act XV. of 1852.

LII. So much of Section VI. of Act XV. of 1852, as provides that every such application as therein mentioned shall be made before issue joined in any such action, or twenty-one days before the trial or hearing of any other legal proceeding as therein mentioned, is hereby repealed.

Extension of Section XVI. of Act VI. of 1854.

LIII. The provision contained in the 16th Section of Act VI. of 1854, that affidavits of particular witnesses, or affidavits as to particular facts or circumstances may, by consent of the parties, or by leave of the Court obtained upon notice, be used in the hearing of any cause on the Equity side of the Supreme Courts, shall extend to all civil actions, suits and proceedings on all sides of the Courts.

Extension of Section XVII. of Act VI. of 1854.

LIV. So much of the 17th Section of the same Act as provides that, upon the hearing of any motion, petition or other proceeding in any of the said Supreme Courts, the Court may, upon

the application of any of the parties thereto, or of its own accord, require and enforce the attendance and oral examination before itself of any witness or of any party to the suit, and may also require and enforce the production of any document or documents, and may direct the costs of the attendance and examination of such witness or party to be paid by such of the parties to the suit, or in such manner as it may think fit, shall extend to all civil actions, suits, and proceedings, on all sides of the said Court.

Section XXXIII. of Act VI. of 1854 extended.

LV. The 33rd Section of the Act No. VI. of 1854, which applies only to proof of accounts on the Equity side of the said Supreme Courts, shall extend to and embrace all accounts directed to be taken on any side of the said Courts.

Proof of Official documents.

LVI. Whenever, by any Statute or Act, Regulation or Ordinance now in force, or any Statute or Act to be hereafter in force, any Certificate, certified copy, or other document, shall be receivable in evidence of any particular in any Court of Justice, the same, if it is substantially in the form and purports to be executed in the manner directed by the Statute, Act, Regulation, or Ordinance which makes it evidence, shall be *primâ facie* evidence, where it is rendered admissible, without proof of any seal, stamp, signature, character, or authority, which it is directed to have, or from which it is directed to proceed.

No new trial for rejection or improper reception of evidence.

LVII. The improper admission or rejection of evidence shall not be ground of itself for a new trial or reversal of any decision in any case, if it shall appear to the Court before which such objection is raised that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that if the rejected evidence had been received, it ought not to have varied the decision.

Act not to render inadmissible evidence now admitted in the Company's Courts.

LVIII. Nothing in this Act contained shall be so construed as to render inadmissible in any Court any evidence which, but for the passing of this Act would have been admissible in such Court.

See also Act.

THE INDIAN NAVY.

ACT No. III. OF 1855.

[*Passed on the 2nd February*, 1855.

1. Repeals Act 4 of Bombay Regulations, registered 11th July, 1820.
2. Persons instigating desertion from Indian Navy or harbouring deserters, liable to fine.
3. Master of vessel having on board a deserter to be liable to fine, if he might have prevented it.
4. Offences under this Act cognizable by Justices of the Peace, &c.
5. Conviction needs not state the evidence, and not to be quashed for want of form, &c.
6. Offences punishable under this Act, and Act 14, 1849, may be dealt with under either.
7, 8. Commander-in-Chief of I. N. and what other persons may issue warrants; and (8) all constables bound to execute warrant.
9. What the proceedings under this Act shall be.

An Act for the better prevention of Desertion from the Indian Navy.

Preamble.

Whereas it is expedient to amend and extend the laws in force for apprehending and detaining deserters from the Indian Navy, and for punishing persons who aid and encourage such desertion, it is hereby enacted as follows:

Repeal of Article 4 of Bombay Rule, Ordinance, and Regulation of July, 1820.

I. Article 4 of a Rule, Ordinance, and Regulation for the Port of Bombay, passed by the Governor in Council, and registered in the Court of the Recorder on the 11th day of July, 1820, is hereby repealed, in so far as relates to Seamen of the Indian Navy.

The Indian Navy, as a distinct Service, being abolished, this Act is become obsolete.

ASSAM COMPANY.

ACT No. IV. OF 1855.

[*Passed on the 10th February*, 1855.

Recites expediency of continuing the Company for twenty years.

1. Repeals Act 14 of 1854.
2. Continues the Assam Company for 20 years.

3. Empowers the Company to hold land, &c., for the growth of tea, but prohibits manufacturing salt or cultivating opium without license.

4. Capital of Company valued at 50 Lacs of Rupees, in 10,000 Shares.

5. Empowers Company to raise loans to extent of one-fourth of its valued capital.

6. Confers corporate name on Company.

7. Empowers Company to make Bye-laws.

8. Regulates the holding of meetings.

9. Prescribes the accounts to be kept and presented, &c.

10, 11. Entitles Shareholders to have certificates signed by Director, and (11) Shares to be personal property.

12, 13. Payment up of further capital to be regulated by bye-laws; and (13) arrears may be chargeable with interest.

14. Contracts, &c., made by Company under former Acts to be valid under this Act.

15, 16. Company's Deed, Rules, and Bye-laws to be kept at office, and also copies filed with Prothonotary of Supreme Court, &c.; and (16) names of Directors and Officers of Company to be kept in book at office and filed with Prothonotary.

17. Names of Shareholders and transfers to be registered in book to be kept at office, &c.

18, 19. Company to sue and be sued in corporate name, &c.; and (19) Process to be served on Secretary.

An Act for incorporating for a further period, and for giving further powers to the Assam Company.

Preamble.

Whereas by Act No. XIX. of 1845 the Assam Company was incorporated, and it was thereby enacted that the Act should continue in force until the 30th day of April, 1854. And whereas by Act No. XIV. of 1854, the operation of the above Act was continued until the 30th day of April, 1855. And whereas it is expedient that the said Company should be incorporated for a period of twenty years, to commence from the passing of this Act, and should have the powers, and be subject to the provisions, hereinafter contained, it is enacted as follows:

Act No. XIV. of 1854 repealed.

I. Act No. XIV. of 1854, is hereby repealed, except as to contracts made, acts done, and liabilities incurred before the passing of this Act.

Repealed by Act XI., 1866. The Company is now Incorporated under an Act of Parliament.

PROCESS OF EXECUTION.—SUPREME COURTS.

ACT No. V. OF 1855.

[*Passed on the 17th February*, 1855.

Recites expediency of assimilating process of execution on all sides of Supreme Courts.

1, 2, 3. Abolishes process of contempt in certain cases as part of process of execution; (2) substitutes for it a fi. fa. or ca. sa.; (3) what the Sheriff is to do with the money.

4, 5. Substitutes an officer of the Court to do certain acts, on default of parties ordered to do them; or (5) Court may in certain cases dispense with act being done.

6. Substitutes for old procedure power in the Sheriff to carry into execution decrees for possession, &c.

7. Repeals ss. 1 and 2 of Act 25 of 1841.

8. Reserves the old process of contempt for cases where the new procedure cannot be applied.

9. H. M.'s Courts to frame new writs.

10, 11. Interpretation clause. (11) Act to take effect from 1st May, 1855.

An Act to assimilate the process of Execution on all sides of Her Majesty's Supreme Courts, and to extend and amend the provisions of Act XXV. of 1841.

Preamble.

Whereas it is expedient to make the process of execution on all sides of Her Majesty's Supreme Courts as near as may be the same; and also to extend and amend the provisions for giving effect to the decrees and orders of Her Majesty's Supreme Courts in certain cases, which are contained in Act No. XXV. of 1841, it is enacted as follows:

Process of contempt not to issue to compel performance of decree, &c., to pay money or to execute a deed, &c.

I. No process of contempt shall issue to compel the performance of so much of any judgment, decree, sentence, or order, either decretal or interlocutory, made by any of Her Majesty's Supreme Courts, as directs any person to pay any money or costs, or to execute any conveyance or other deed or instrument, or to make any transfer or surrender, or to do any act which a constituted attorney of such person, if ordered by the Court to do the same for his principal, would have the means of performing.

II. Where any person is liable to pay any money or costs

Party in default, after judgment or order to pay money, or costs to be proceeded against by *Ca. Sa.* or *Fi. Fa.*, *&c.*

upon a judgment recovered against him in any of the said Courts, or has made default in the payment of any money or costs which by any order, decree, or sentence made in any proceeding by any of the said Courts on any side thereof, he has been ordered to pay, execution may be issued either against his person by a writ in the nature of the ordinary writ of *Capias ad Satisfaciendum*, or to levy such money or costs out of his property by a writ of *Fieri Facias or Venditioni Exponas*, according to the course and practice of the Court as the same shall be settled by the rules and orders to be made for giving effect to the provisions of this Act. Provided that nothing herein contained shall extend to a fine unpaid for a criminal offence, or alter the mode of compelling the payment of such fine.

Proviso.

III. The Sheriff shall pay the money which he may levy under any execution either to the party named in the writ in satisfaction of his demand, or into Court according to the exigency of the writ which shall be in conformity with the order under which the money is payable.

Sheriff how to deal with money levied.

IV. Whenever any person has been directed by any judgment, decree, sentence, or order of any of the said Courts to execute any conveyance, deed, or instrument, or to make any transfer or surrender, or to do any act which a constituted attorney of such person, if directed by the Court to do the same for his principal would have the means of performing; and such person has refused or neglected to obey such direction, or has evaded compliance therewith, either by absenting himself in order to avoid service of the judgment, decree, sentence, or order, wherein such direction is contained, or by any other means, it shall be lawful for the Court by which such direction has been given, whether the person disobeying or evading compliance with such direction is in custody or not, upon application made to the said Court for that purpose, and upon proof to its satisfaction of such default or evasion as aforesaid, to order or appoint the Registrar, Master, or other Officer of the said Court to execute such conveyance, deed, or instrument, or to make such transfer or surrender, or to do such other act as aforesaid, for and in the name of the person

Power to the Court to appoint an Officer to execute instrument, or to do any act for the person who has been ordered but has failed to execute or do the same.

by whom the same ought to have been executed, made, or done; and every conveyance, deed, and instrument which shall have been executed, and every transfer and surrender which shall have been made, and every other act which shall have been done by an Officer of Court under the authority of this Act, shall in all respects have the same force and validity as it would have if it had been duly executed, made, or done by the persons for and in whose name it shall have been so executed, made, or done.

Or in certain cases to dispense with the execution of an instrument, or the signature of a writing.

V. If it shall appear to any of the said Courts, upon an application made to it under this Act, that it can safely dispense with the formal execution of any conveyance, deed, or instrument which the person directed to execute the same has failed to execute, or with the signature of any writing required for the formal performance of any act required to be done but omitted to be done by the person directed to do the same, it shall be lawful for the said Court, in lieu of ordering its Officer to execute the said conveyance, deed, or instrument, or to sign the said writing, by its order to declare that such conveyance, deed, instrument, or writing shall be as valid and effectual to all intents and purposes without the execution or signature of the person directed to execute or sign the same, as it would have been if he had duly executed or sighed the same.

The Court empowered to enforce the delivery of any immoveable property or any other specific chattel, or the deposit of any books, papers, or other articles or things, by seizure.

VI. When any person has been directed, by any judgment, decree, sentence, or order of any of the said Courts to deliver up possession of any immoveable property, or of any specific chattel or security, or to deliver to any person or persons, or to deposit in Court or elsewhere, any books, papers, writings, or other articles or things, and has refused or neglected to obey such direction, or has evaded compliance therewith, either by absenting himself to avoid service of the said judgment, decree, sentence, or order, or by any other means, it shall be lawful for the Court by which such direction has been given, whether such person is in custody or not, on proof of such default or evasion as aforesaid, to issue a writ or writs to the Sheriff, directing him either to put the party therein named into possession, or to seize and take such chattel, security, books, papers, writings, or other articles or things, and

Party in default, after judgment or order to pay money, or costs to be proceeded against by *Ca. Sa.* or *Fi. Fa.*, *&c.*

upon a judgment recovered against him in any of the said Courts, or has made default in the payment of any money or costs which by any order, decree, or sentence made in any proceeding by any of the said Courts on any side thereof, he has been ordered to pay, execution may be issued either against his person by a writ in the nature of the ordinary writ of *Capias ad Satisfaciendum*, or to levy such money or costs out of his property by a writ of *Fieri Facias or Venditioni Exponas*, according to the course and practice of the Court as the same shall be settled by the rules and orders to be made for giving effect to the provisions of this Act. Provided that nothing herein contained shall extend to a fine unpaid for a criminal offence, or alter the mode of compelling the payment of such fine.

Proviso.

III. The Sheriff shall pay the money which he may levy under any execution either to the party named in the writ in satisfaction of his demand, or into Court according to the exigency of the writ which shall be in conformity with the order under which the money is payable.

Sheriff how to deal with money levied.

IV. Whenever any person has been directed by any judgment, decree, sentence, or order of any of the said Courts to execute any conveyance, deed, or instrument, or to make any transfer or surrender, or to do any act which a constituted attorney of such person, if directed by the Court to do the same for his principal would have the means of performing; and such person has refused or neglected to obey such direction, or has evaded compliance therewith, either by absenting himself in order to avoid service of the judgment, decree, sentence, or order, wherein such direction is contained, or by any other means, it shall be lawful for the Court by which such direction has been given, whether the person disobeying or evading compliance with such direction is in custody or not, upon application made to the said Court for that purpose, and upon proof to its satisfaction of such default or evasion as aforesaid, to order or appoint the Registrar, Master, or other Officer of the said Court to execute such conveyance, deed, or instrument, or to make such transfer or surrender, or to do such other act as aforesaid, for and in the name of the person

Power to the Court to appoint an Officer to execute instrument, or to do any act for the person who has been ordered but has failed to execute or do the same.

by whom the same ought to have been executed, made, or done; and every conveyance, deed, and instrument which shall have been executed, and every transfer and surrender which shall have been made, and every other act which shall have been done by an Officer of Court under the authority of this Act, shall in all respects have the same force and validity as it would have if it had been duly executed, made, or done by the persons for and in whose name it shall have been so executed, made, or done.

Or in certain cases to dispense with the execution of an instrument, or the signature of a writing.

V. If it shall appear to any of the said Courts, upon an application made to it under this Act, that it can safely dispense with the formal execution of any conveyance, deed, or instrument which the person directed to execute the same has failed to execute, or with the signature of any writing required for the formal performance of any act required to be done but omitted to be done by the person directed to do the same, it shall be lawful for the said Court, in lieu of ordering its Officer to execute the said conveyance, deed, or instrument, or to sign the said writing, by its order to declare that such conveyance, deed, instrument, or writing shall be as valid and effectual to all intents and purposes without the execution or signature of the person directed to execute or sign the same, as it would have been if he had duly executed or sighed the same.

The Court empowered to enforce the delivery of any immoveable property or any other specific chattel, or the deposit of any books, papers, or other articles or things, by seizure.

VI. When any person has been directed, by any judgment, decree, sentence, or order of any of the said Courts to deliver up possession of any immoveable property, or of any specific chattel or security, or to deliver to any person or persons, or to deposit in Court or elsewhere, any books, papers, writings, or other articles or things, and has refused or neglected to obey such direction, or has evaded compliance therewith, either by absenting himself to avoid service of the said judgment, decree, sentence, or order, or by any other means, it shall be lawful for the Court by which such direction has been given, whether such person is in custody or not, on proof of such default or evasion as aforesaid, to issue a writ or writs to the Sheriff, directing him either to put the party therein named into possession, or to seize and take such chattel, security, books, papers, writings, or other articles or things, and

to deal with the same according to the exigency of the writ, which in all cases shall be conformable to the order, to compel the performance whereof the same is issued.

Proviso.

But nothing herein contained shall authorize the Sheriff to disturb the *bonâ fide* possession of any person other than the person against whom such order is made.

Repeal of 1st and 2nd Sections of Act XXV. of 1841.

VII. The first and second Sections of Act No. XXV. of 1841, except as to all proceedings which shall have been had or commenced thereunder before this Act comes into operation, are hereby repealed.

Power reserved to issue process of contempt to compel obedience to orders which cannot be otherwise enforced.

VIII. Nothing in this Act contained shall prevent any of the said Courts from issuing process of contempt, according to its present course of practice, on its Equity side against the person of any party who has been ordered to do any act other than the payment of money, or costs, or the execution of any conveyance, deed, or other instrument, if obedience to such order cannot be otherwise enforced, or against the person of any party who has committed a breach of any injunction; and the Court may issue such process of contempt on any of its sides, and in such cases shall have and may exercise all powers which it now has touching the commitment, detention, or discharge of any person taken under process of contempt issued on its Equity side.

Court may frame writs of execution.

IX. It shall be lawful for Her Majesty's Supreme Courts to frame such new or altered writs of execution as they shall deem necessary or expedient for giving effect to the provisions hereinbefore contained, and by the rules or orders to be made under this Act, to regulate the mode of issuing and executing such writs of execution.

Interpretation Clause.

X. The words "person" and "party," as used in this Act, shall be understood to include any body corporate, and though used so as to import the singular number or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction; and the term "Her Majesty's

Supreme Courts" shall be understood to include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.

Commencement of the Act.

XI. This Act shall take effect from the 1st day of May next.

PROCESS OF EXECUTION.—SUPREME COURTS.

Act No. VI. of 1855.

[*Passed on the 17th February*, 1855.

Recites expediency of extending operation, &c., writs of execution.

1. (Clause 1). Equitable interests may be seized and sold as well as legal; (Cl. 2.) and Sheriff may deliver possession; or (Cl. 3.) sell and convey what cannot be seized or delivered; and (Cl. 4 & 5.) how sale to be notified beyond Calcutta.

2. Money due under execution may be raised by mortgage instead of sale.

3. Makes Money, bank-notes and other choses in action seizable, and directs what is to be done with them.

4. Authorizes seizure of Company's Paper and empowers Sheriff to endorse same, &c.

5. Debts not to be sold as heretofore.

6, 7. Empowers Court to order shares in Companies to be charged with execution debt; and (7) to make property under charge of the Court available.

8, 9. Party arrested under ca. sa. for money payable to party may pay same to creditor, his attorney or Sheriff; and (9) Sheriff may discharge party under written authority of attorney.

10. Sheriff liable for escape only to damage sustained.

11, 12. Writs of execution to remain in force only one year, but may be renewed, and how; (12) renewal to be evidenced by endorsement.

13. Some kind of effects seizable under Sequestration as under fi. fa.

14. Interpretation clause.

An Act to extend the operation of and regulate the mode of executing writs of Execution in Her Majesty's Supreme Courts of Judicature.

Preamble.

Whereas it is desirable to extend the operation of and regulate the conduct of writs of execution out of Her Majesty's Supreme Courts in certain cases, it is enacted as follows:

Sheriff empowered under any writ of *fieri facias* issued on any side of Supreme Court to seize and sell immoveable property.

I. Clause 1. Under any writ of *fieri facias* issued out of any of Her Majesty's Supreme Courts, on any side of the Court, may be seized and sold any lands, houses or other immoveable property of the party against whose effects such writ issues, whether his estate or interest therein be legal or equitable.

When property is in possession of judgment debtor, Sheriff to put purchaser in possession.

Clause 2. The Sheriff under any such writ may put the purchaser in possession of such of the lands, houses or other immoveable property sold under such writ, of which the judgment debtor is in the actual possession, and of which an actual delivery can be made.

When property is not in possession of judgment debtor, Sheriff not to seize but to sell debtor's interest.

Clause 3. If the lands, houses or other immoveable property liable to be sold under such writ, be in the possession of any person other than the judgment debtor, the Sheriff shall not seize such property, but shall sell and convey all the right, title and interest of the debtor; and such conveyance shall pass the same interest to the purchaser as if the same had been executed by the debtor.

Effect of Conveyance.

Sale when to be notified to Judge of District. Proclamation of same.

Clause 4. In such last-mentioned case, if the property shall be situate beyond the local limits of the jurisdiction of such Court, the Sheriff shall notify such sale to the Judge of the District, who shall cause notice of the same to be officially proclaimed, in like manner as if the sale had been effected under a decree of his own Court.

Notice of sale when to be published in the office of Collector, &c.

Clause 5. In any case of intended sale of immoveable property beyond the local limits of the jurisdiction of such Supreme Court, the Sheriff shall cause a notice specifying the time and place of the intended sale, to be stuck up in some conspicuous place in the office of the Collector of the district within which such property is situate, and also at the Mal Cutcherry of the estate, if any; otherwise, on some conspicuous part of the property to be sold. The number of days between the publication of such notice and the sale shall not be less than fourteen days, if the property be not distant more than 100 miles from the Supreme Court; if the distance shall exceed 100 miles, the number of days shall be increased by an additional day for every 50 miles of such excess of distance. Provided that the want of such notice or any irregularity in respect thereof, shall not vitiate the sale in the hands of a *bonâ fide* purchaser.

Length of time for publication of notice.

Proviso.

II. If any lands, houses or other immoveable property be seized or liable to be sold under any such writ, it shall be lawful for the Court, on application to it on behalf of the execution debtor or of any one of several execution debtors, if the Court shall be satisfied that there is reasonable ground to believe that the amount of the judgment may be raised by mortgage of the estate, to postpone the sale for a term not exceeding one month to enable the defendant to raise the amount, and to direct that the money ordered to be levied by such execution shall be raised by mortgage instead of sale of such lands, houses or other immoveable property, upon such terms as to the payment of interest upon the judgment or otherwise as the Court may think fit, and in such case to give all necessary directions for the execution of such mortgage.

In what case judgment debt may be raised by mortgage instead of sale.

III. Under any such writ of *fieri facias* may also be seized money, bank-notes, cheques, bills of exchange, promissory notes, hoondees, Government securities, bonds, or other securities for money, and also debts belonging to the said person; and the Sheriff or other officer having the execution of the writ shall be at liberty to pay or deliver over to the party suing out such execution, any money or bank-notes which shall so be seized, or a sufficient part thereof, and shall with the order of the Court, endorse over or transfer, and without such order, shall hold any such cheques, bills of exchange, promissory notes, hoondees, bonds, or other securities for money, as a security or securities for the amount by such writ of *fieri facias* directed to be levied, or so much thereof as shall not have been otherwise levied and raised, and may, where he retains the same, sue in his own name as such Sheriff or officer, for the recovery of the sum or sums secured thereby, or for any debt seized as aforesaid when the time of payment thereof shall have arrived; and the payment to such Sheriff or other officer, or to the party entitled under such endorsement or transfer, by the party liable, with or without suit,

Sheriff empowered under any such writ of *fieri facias* to seize money, bank-notes, &c.

And to pay money or bank-notes, to execution creditor.

And with the order of the Court to endorse over, and without such order to hold cheques, bills of exchange, &c.

And to sue in his own name for amount secured by bills of exchange, &c.

Or for debts.

or the recovery and levying execution against the party so liable, shall discharge him to the extent of such payment or of such recovery and levy in execution, as the case may be, from his liability on any such cheque, bill of exchange, promissory note, hoondee, bond, security, and debt; and such Sheriff or other officer shall pay over to the party suing out such writ, the money so to be recovered, or such part thereof as may be sufficient to discharge the amount by such writ directed to be levied; and if after satisfaction of the amount so to be levied together with Sheriff's poundage and all lawful charges and expenses, any surplus shall remain in the hands of such Sheriff or other officer, the same shall be paid to the party against whom such writ shall be so issued, unless the same is duly attached in the hands of such Sheriff or other officer. Provided that no Sheriff or other officer shall be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, hoondee, bond, security, or debt unless the party suing out such execution shall give security to the Sheriff for indemnifying him from all costs and expenses to be incurred in the prosecution of such action, or to which he may become liable in consequence thereof: the nature and amount of such security to be determined, in case they cannot agree, by the proper officer of the Court in which such action shall be brought, or, if the Court shall so order, by some other person to be appointed by the Court for such purpose, and the expense of preparing and executing such security shall be deducted out of any money to be recovered in such action, and the net proceeds only in this and other cases provided for by this Act shall be considered as received in satisfaction of the debt due to the execution creditor.

Proviso as to indemnity for Sheriff.

IV. If the Sheriff or other officer under any writ of *fieri facias* shall seize any Government security standing in the name of, or belonging to the party against whose property such writ shall be issued, he shall have power to receive the interest due on such Government securities whether specially endorsed or otherwise, and to sign a receipt for the same; and also to sell and dispose of such Government security through a broker at the market rate of the

Sheriff empowered to receive interest on Government security seized by him.

And to sell and where endorsement necessary to endorse such security.

day; and if the endorsement of such party shall be required to transfer such Government security, the Sheriff or other public officer shall endorse the same thus, "A. B. by C. D. Sheriff;" and such endorsement shall be as effectual to pass the said Government security and to give a good title to the holder thereof as if the same had been endorsed by the party himself or his duly-constituted attorney.

No debt to be sold by Sheriff.

V. No debt shall be sold by the Sheriff under the process of the said Court, any Charter of any of the said Supreme Courts to the contrary notwithstanding; but the same shall be realized in the mode hereinbefore directed.

Shares in public Company may be charged in execution.

VI. If any person against whom any writ of execution shall have issued, shall have any interest in any stock or shares in any public Company, whether incorporated or not, carrying on business in India and within the reach of the process of the Court out of which such writ of execution has issued, it shall be lawful for the said Court or for any Judge thereof, on the application of the party who has sued out such writ of execution, to make an order *ex parte* that such interest in such stock or shares, or such of them or such part thereof respectively as the said Court or Judge shall think fit, shall stand charged with the payment of the amount due in respect of such writ of execution; and such order shall have the like effect and entitle the person in whose favor the same is made to the same remedies and priorities as a charge executed in favor of such person by the person against whom execution shall have been issued; and service or notice of such order upon or to the public Company whose stock or shares are the subject of such order, or upon or to any person claiming an interest in such stock or shares, shall have the like effect and shall entitle the person in whose favor such order is made to the same remedies against such public Company or such last-mentioned person as notice of a charge executed of even date with such order by the person against whom execution shall have been issued in favor of the person at whose suit the same shall have been issued. Provided that nothing herein contained shall prevent the person against whom such order shall have been made or any other person affected

Proviso.

thereby, from applying to the Court or Judge by whom such order has been made for its discharge on such grounds as may be just.

Property standing in name of any officer of Court.

VII. If such debtor shall have any interest in any property which shall be standing in the name of the Accountant General of the Court or of any other officer of the Court, or in the dividends, interest, or annual produce thereof, it shall be lawful for the Court or a Judge to make an order that the interest of the defendant in such property shall be applied in payment of such debt, and the Court or Judge shall have power to make such order as may be necessary to give full effect to the above provision.

Party arrested under a *Ca. Sa.* entitled to discharge on payment or tender of the amount of levy to opposite party or his attorney or to Sheriff or Gaoler.

VIII. A plaintiff or defendant arrested under any writ of *capias ad satisfaciendum* issued upon any judgments, order, decree or sentence of any of the said Courts whereby money is ordered to be paid to any party, shall be entitled to his discharge from such arrest on payment or tender to such party or his attorney in the cause, or to the Sheriff or Gaoler in whose custody such person may be under such writ, of the amount directed to be levied by such writ.

Written order of attorney issuing *Ca. Sa.* sufficient for the discharge of a party by Sheriff or Gaoler, unless the client shall give written notice to the contrary.

IX. A written order under the hand of the attorney in the cause by whom any writ of *capias ad satisfaciendum* shall have been issued, shall justify the Sheriff, Gaoler, or person in whose custody the party may be under such writ of discharging such party, unless the party for whom such attorney professes to act shall have given written notice to the contrary to such Sheriff, Gaoler, or person in whose custody the opposite party may be; but such discharge shall not be a satisfaction of the debt, unless made by the authority of the creditor; and nothing herein contained shall justify any attorney in giving such order for discharge without the consent of his client.

Attorney not justified in giving order for discharge without the consent of his client.

Sheriff not to be liable for escape, &c., beyond the amount of the loss really occasioned.

X. A Sheriff shall not be liable in an action for escape or other breach of duty, to pay damages beyond the amount of the loss which his breach of duty has really occasioned.

XI. A writ of execution sued out after the commencement of this Act, if unexecuted, shall not remain in force for more than one year from the date of such writ, unless renewed in the manner hereinafter provided; but a writ of execution, whether sued out before or after the passing of this Act, may, at any time before its expiration, be renewed by the party issuing it for one year from the date of such renewal, and so on from time to time during the continuance of the renewed writ, by being marked with the seal of the Court, and with a memorandum, signed by the officer, of the date of the day, month and year of such renewal, or by such party giving a written notice of renewal to the Sheriff signed by the party or his attorney and bearing the like seal of the Court and memorandum signed by the officer as aforesaid; and a writ of execution so renewed shall have effect and be entitled to the same priority as the original writ would have had. Provided however that no writ of *habere facias possessionem* shall be renewed without the special leave of the Court or a Judge.

Writ of execution, if unexecuted, not to remain in force more than one year unless renewed.

But may be renewed from time to time.

Renewed writ entitled to same priority as its original.

Proviso as to writ of *Habere*.

XII. The production of a writ of execution or of the notice renewing the same, purporting to be marked with such seal and signed as aforesaid, showing the same to have been renewed according to this Act, shall be sufficient evidence of its having been so renewed.

Production of writ or of notice of renewal sufficient evidence of renewal.

XIII. All property of every kind that may be seized under a writ of *fieri facias*, issued from the said Supreme Courts respectively, may be seized also under a writ of sequestration duly issued from the same, and the seizure must in all cases be made in the mode directed by this Act as to seizures under writs of *fieri facias*, and any sum ordered by the Court to be realized by a sequestration, shall be realized in the same mode, and not otherwise, as if directed to be levied under a writ of *fieri facias*.

Under a Writ of sequestration all property may be seized in like manner as under a *fieri facias*.

Sum ordered to be realized may be levied as under a *fieri facias*.

XIV. The words "person" and "party" as used in this Act, shall be understood to include any body corporate, and though used so as to import

Interpretation clause.

the singular number or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction; and the term "Her Majesty's Supreme Courts," shall be understood to include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.

ARREST ON MESNE PROCESS.

Act No. VII. of 1855.

[*Passed on the 17th February*, 1855.

Recites expediency of amending law of arrest.

1. No arrest to be made without order of Court, &c.

2. No order to be made unless Court is satisfied of good probable cause of action; and also (1) that defendant has absconded, &c., or (2) is about to withdraw, &c., from the jurisdiction; or (3) that he has fraudulently removed, &c., property.

3. Order of arrest may be made at any stage of cause, &c.

4. Judges may require personal attendance of plaintiff, &c., before making order.

5. Copy of affidavit for arrest to be delivered to the Sheriff and by him to defendant.

6, 7, 8. Party arrested may obtain rule for his discharge, and may be discharged by Judge whenever suit is not prosecuted diligently; and (7) when affidavits may be used; and (8) at hearing of motion witnesses may be examined.

9. Entitles prisoners in custody at time of passing this Act to be discharged, &c.

10. Execution creditor to deposit subsistence money with Sheriff; and (Cl. 2) notice of arrest to be given to Plaintiff; and (Cl. 3) further subsistence money then to be deposited; and (Cl. 4) amount of deposit may be varied; (Cl. 5) no arrest to be made without a previous deposit; but (Cl. 6) discharge on account of subsistence money not being deposited not to affect liability of prisoner; (Cl. 8 and 9) subsistence money expended to be costs in the cause; and (Cl. 10) added to the Judgment; and (Cl. 11) under writ of attachment to form part of demand; and (Cl. 12) balance unspent to be returned.

11. Judge's order for discharge sufficient authority to the gaoler, &c.

12. Sheriff, &c., to report to Court circumstances of prisoner, &c.

13. Rules, &c., under this Act to justify officers, &c.

14. Interpretation clause.

15. Act not to affect rules of Court, &c.; nor Insolvent Debtors' Act.

16. A Dollar to be equal to two and one-fifth Rupee, and three Cents to an Anna.

An Act to amend the law of Arrest on mesne process in Civil Actions in Her Majesty's Courts of Judicature, and to provide for the subsistence of Prisoners confined under Civil process of any of the said Courts.

Superseded on the appointment of the High Court under Letters Patent, with the Code of Civil Procedure.

ADMINISTRATOR GENERAL.

ACT NO. VIII. OF 1855.

[*Passed on the 17th February*, 1855.

Recites expediency of amending the Law relating to the A. G.

1, 2, 3. In each Presidency there shall be an A. G.; (2) to be appointed and removed, &c.; (3) in Bengal by G. G. in C., and in Madras and Bombay by the Presidency Government.

4. A. G. not to be deemed an officer of Supreme Court

5, 6. Office of Ecclesiastical Reg. at Madras transferred to A. G.; but (6) same person may fill both offices.

7, 8. A. G. to give security to E. I. C.; (8) in lieu of the old administration bond.

9, 24, 10. A. G. to have letters of administration; and (24) to be granted to him by his name of office, unless claimed by next of kin; (10) next of kin are, who.

11, 12. One month after death, A. G. to take out letters of administration of assets exceeding Rupees 500, unless of a Mahomedan or Hindoo; and (12) of a Mahomedan or Hindoo, in case the Court is satisfied of danger of misappropriation.

13. Repeals s. 20 of Act XIX., 1841.

14. Expowers Court to grant letters of administration, if satisfied of danger of misappropriation, whenever the legal successor is not ascertained.

15. A. G. may be appointed Official Trustee under Act XVII., 1843.

16. On an executor's taking out probate, costs of previous letters of administration to be paid out of estate.

17. Letters of administration to A. G. to be granted whenever no one appears either as executor or next of kin, except in cases of estates of Hindoos and Mahomedans and in their case only in case of danger of misappropriation.

18. Save right of A. G. to apply for letters of administration within a month.

19, 20. Letters of administration though revoked; and (20) acts done under them valid, except as to acts done after notice of will, &c.

21, 22. A. G.'s letter of A. not to be revoked, except within a year, or for a will; and (22) costs of revocation to be paid out of estate.

23. Payment made by A. G. a year after grant of letters to be allowed as against him, though the payee be liable to refund.

24. Ante.

25. A. G. to sue and be sued by his name of office.

26, 27, 28, 29. His Commission to be 3 per cent. in Bengal and 5 in Madras and Bombay; (27 & 29) such commission to cover what expenses, and one half to be taken on receipt of assets, the other on distribution; and (28) in Madras and Bombay may be reduced, &c.

30. Executors and private Administrators not to charge commission.

31. Prescribes what accounts the A. G. shall keep.

32, 33. Empowers Government to make rules for custody of assets, remittance of funds, &c., (33) such rules to be published in Gazette.

34, 35, 36, 39. A. G. to file and publish half-yearly accounts, which are to be audited; and (36) audit to be reported to Government; and (39) to make special report, when, &c.

37. Empowers auditors to summon witnesses, &c., call for books, &c.

38. Costs of preparing schedule and of audit to be defrayed out of all the estates rateably.

39. Ante.

40, 41. What proceedings may be taken on special report of auditors; and (41) how costs are to be defrayed.

42. Orders of Supreme Courts to have effect of decretal order.

43, 44, 45, 46. In estates under value of Rs. 500, A. G. may grant person entitled a certificate; but (44) not bound to grant it; and (45) certificate to be sufficient discharge; and (46) Letters of A. not necessary to be taken out in such cases.

47. A. G. to be entitled to commission on certificate.

48. False affirmations under this Act to be punishable as perjury.

49. Trading and trafficking by A. G. to be deemed a misdemeanour.

50, 51, 52. Directs certain accumulations in hands of Bombay A. G. to be transferred to E. I. Co.; and (51) same in Bengal and Madras; but (52) parties interested in such accumulations may recover, and sue.

53, 56. Repeals s. 6, Bengal R. 15, 1806, and s. 5, Madras R. 4, 1809; and (56) Acts 7, 1849, and 2, 1850.

54. Zillah Judge to report death of British Subject in Mofussil to A. G.

55. Interpretation clause.

56. Ante.

57. Excepts from operation of Act estates of persons subject to Articles of War and persons in the Indian Navy.

An Act to amend the law relating to the office and duties of Administrator General.

Preamble.

Whereas it is expedient to amend the law relating to the office and duties of Administrator General, it is enacted as follows:

Designation of the Administrators General in the three Presidencies.

I. In each of the Presidencies of Fort William in Bengal, Fort St. George and Bombay, there shall be an Administrator General. The said Administrators General shall be called respectively the Administrator General of Bengal, the Administrator General of Madras, and the Administrator General of Bombay.

Appointment, suspension and removal of Administrators General.

II. Such officers shall be appointed and may be suspended or removed by the authorities hereinafter mentioned respectively, that is to say:

The Administrator General of Bengal, by the Governor General of India in Council.

The Administrator General of Madras, and the Administrator General of Bombay, by the Governments of those Presidencies respectively.

Continuance of existing incumbents.

III. Any person now holding the office of Administrator General at any of the said Presidencies, shall continue to hold the same, subject to the provisions of this Act.

Administrator General not to be deemed an officer of the Supreme Court.

IV. The Administrator General shall not be deemed in that capacity to be an officer of the Supreme Court.

Letters of Administration granted to the Ecclesiastical Registrar of the Madras Supreme Court since Act II. of 1850, and Estates, &c., transferred to Administrator General.

V. All letters of administration, which since the passing of Act No. II. of 1850, have been granted by the Supreme Court of Judicature at Fort St. George to the Ecclesiastical Registrar of that Court in virtue of his office, and all estates, effects and interests, books, papers and documents, now vested in, or belonging to the said Ecclesiastical Registrar, or under his control, by virtue of any such letters of administration, are by this Act transferred to and vested in him as Administrator General of that Presidency, and such letters of administration shall have the same effect in all respects as to any act hereafter to be done or required to be done under this Act as if they had been granted to him as Administrator General.

The present Administrator General of Madras may hold the office of Ecclesiastical Registrar.

VI. The two offices of Ecclesiastical Registrar of the Supreme Court and Administrator General may be held by the present Administrator General at the Presidency of Fort St. George. With

that exception no person now holding the office of Administrator General or hereafter to be appointed to such office in any of the said Presidencies, shall hold the office of Ecclesiastical Registrar, nor, without the express sanction of Government, any other office, together with that of Administrator General. Provided that nothing in this Act shall prevent the present Administratar General of Bengal from holding the office of Receiver of the Supreme Court of Judicature now held by him.

Otherwise no Administrator General to be Ecclesiastical Registrar.

Administrator General not to hold any other office without sanction of Government.

Proviso.

VII. Unless the Governor General of India in Council or the Government with the sanction of the Governor General of India in Council shall otherwise order, every Administrator General hereafter to be appointed shall give security to the East India Company for the due execution of his office, for one lac of Rupees by his own bond and for another lac of Rupees, or for separate sums amounting together to one lac of Rupees, by the deposit of Government Securities or by the joint and several bond or bonds of two or more sureties to be approved by Government, or partly by such deposit and partly by such bond or bonds; provided that every Administrator General may, with the consent of Government, substitue either of the said two last-mentioned kinds of security for another previously given for such last-mentioned lac or any part of it; and every Administrator General may, with the consent of Government, and shall from time to time, when required by Government so to do, cause fresh sureties to be substituted for any of those previously bound so far as the security shall relate to the due execution of his office for the time then to come.

Security to be given by Administrator General.

Substition of Security or Sureties.

VIII. No Administrator General shall be required by the Supreme Court to enter into any administration bond, or to give other security to the Court, on the grant of any letters of administration to him in virtue of his office.

No Security to be required by Supreme Court on grant of letters to Administrator General.

IX. Any letters of administration, or letters *ad colligenda bona*, which shall hereafter be granted by the Supreme Court of Judicature at any of the said Presidencies shall be granted

Administrator General entitled to letters of administration, unless granted to next of kin of deceased.

to the Administrator General of the Presidency, unless they shall be granted to the next of kin of the deceased; and it is hereby declared that the Administrator General of the Presidency shall be deemed to have a right to letters of administration in preference to that of any person merely on the ground of his being a creditor or friend of the deceased.

Administrator General entitled in preference to creditor or friend.

X. The words "next of kin" shall be deemed throughout this Act to include a widower or widow of the deceased, or any other person who, by law and according to the practice of the Courts would be entitled to letters of administration in preference to a creditor of the deceased. Provided that no Ecclesiastical Registrar or other Officer of any of the said Courts, shall, by reason of his office, be deemed entitled to any letters of administration or *ad colligenda bona*, or have any grant thereof made to him.

Construction of words "next of kin."

Ecclesiastical Registrar not to be entitled to administration by reason of his office.

XI. If any person, not being a Mahomedan or Hindoo, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall, if a British subject, have left assets exceeding the value of five hundred Rupees within any of the said Presidencies, or any of the Provinces or places subject thereto, or shall, if not a British subject, have left personal assets exceeding five hundred Rupees within the local limits of the jurisdiction of the Supreme Court of Judicature at any of the said Presidencies, and no person shall, within one month after his death, have applied for probate of a will, or for any letters of administration of his estate, the Administrator General of the Presidency in which such assets shall be is hereby required, within a reasonable time after he shall have had notice of the death of such person, and of his having left such assets as aforesaid, to take such proceedings as may be necessary to obtain from the Supreme Court of Judicature at such Presidency letters of administration to the effects of such person, either generally or with a will annexed, as the case may require. Provided that assets, which any person may be entitled to collect, receive, or

When administration of estates of persons other than Mahomedans or Hindoos is to be by Administrator General.

Proviso as to assets under Act XX. of 1841.

dispose of, by virtue of a certificate granted under Act XX. of 1841, shall not be deemed assets within the meaning of this Section.

Upon death of any person leaving assets within local limits, the Court may if assets are in danger direct Administrator General to apply for administration.

XII. Whenever any person, whether a Mahomedan or Hindoo or not, shall die leaving assets within the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature at any of the said Presidencies, it shall be lawful for the Court upon the application of any person interested in such assets or in the due administration thereof, either as a creditor, next of kin or otherwise, or upon the application of a friend of any infant who may be so interested, or upon the application of the Administrator General, if the applicant shall satisfy the Court that danger is to be apprehended of the misappropriation of such assets, unless letters of administration of the effects of such person are granted, to make an order directing the Administrator General to apply for letters of administration of the effects of such person.

Repeal of Section 20, Act XIX. of 1841.

XIII. Section XX., Act No. XIX. of 1841, is hereby repealed, except as to acts done and except as to any case in which an order shall have been made before the commencement of this Act.

Upon death of any person leaving property within local limits Court may, if property is in danger, enjoin Administrator General to collect and hold the same until right of succession or administration is ascertained.

XIV. Whenever any person, whether a Mahomedan or Hindoo or not, shall have died leaving moveable or immoveable property within the local limits of the jurisdiction of any of Her Majesty's Supreme Courts of Judicature, and such Court shall be satisfied that danger is to be apprehended of the misappropriation or waste of such property, before it can be ascertained who may be legally entitled to the succession to such property, or whether the Administrator General is entitled to letters of administration to such deceased person, it shall be lawful for the Court to authorize and enjoin the Administrator General to collect and take possession of such property and to hold or deposit or invest the same according to the orders and directions of the Court, and in default of any such orders or directions, according to the provisions of this Act so far as the same are applicable to such property; and the Administrator

Rate of Commission payable in such case.

General shall be entitled to a commision of one per cent. upon the amount of all personal assets collected or received by him in persuance of such order; and in case letters of administration of any such effects shall be afterwards granted to the Administrator General, the said commission of one per cent. shall be deemed a part payment of the commission payable to the Administrator General under the letters of administration. Any order of Court made under the provisions of this Section shall entitle the Administrator General to collect and to take possession of such property, and, if necessary, to maintain an action for the recovery thereof.

Administrator General may be Official Trustee under Act XVII. of 1843.

XV. The Administrator General of the Presidency may be appointed an Official Trustee under Act No. XVII. of 1843.

Probate to be granted to executor appearing in the course of proceedings taken by Administrator General to obtain administration.

XVI. If in the course of proceedings to obtain letters of administration under the provisions of Sec. XI. or Sec. XII. of this Act, any executor appointed by a will of the deceased shall appear according to the practice of the Court and prove the will and accept the office of executor, or if any person shall appear according to such practice and make out his claim to letters of administration as next of kin of the deceased, and shall give such security as shall be required of him by law or by the practice of the Court, the Court shall grant probate of the will or letters of administration accordingly, and shall award to the Administrator General his costs of the proceedings so taken by him, to be paid out of the estate, as part of the testamentary expenses thereof.

Costs of proceedings taken by the Administrator General to be paid out of the estate.

If no executor or next of kin appear or give necessary security, letters of administration to be granted to Administrator General.

XVII. If no person shall appear according to the practice of the Court, and entitle himself to probate of a will, or to a grant of letters of administration, as next of kin of the deceased, or if the person who shall entitle himself to a grant of administration shall neglect to give such security as shall be required of him by law or according to the practice of the Court, the Court shall grant

Administration to effects of deceased Mahomedans or Hindoos not to be granted under Section XII. unless required to protect the assets.

letters of administration to the Administrator General. Provided that in the case of an application being made under Section XII. of this Act for letters of administration to the effects of a deceased Mahomedan or Hindoo, the Court may refuse to grant letters of administration to any person if it be satisfied that such grant is unnecessary for the protection of the assets, and in such case the said Court shall make such order as to the costs of the application as it shall think just.

Costs of unnecessary application.

XVIII. Nothing in this Act is intended to preclude the Administrator General from applying to the Court for letters of administration in any case within the period of one month from the death of the deceased.

Administrator General not precluded from applying for letters of administration in any case within one month after death of deceased.

XIX. If any letters of administration, which shall be granted to the Administrator General under the provisions of this Act, shall be revoked or recalled, the same shall, so far as regards the Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable, except as to any act done by any such Administrator General or other person as aforesaid, after notice of a will or of any other fact which would render such letters of administration void. Provided that no notice of a will or of any other fact which would render any such letters of administration void shall affect the Administrator General, or any person acting under his authority in pursuance of such letters of administration, unless within the period of one month from the time of giving such notice proceedings be commenced to prove the will or to cause the letters of administration to be revoked, nor unless such proceedings be prosecuted without unreasonable delay.

After revocation letters of administration granted to Administrator General to be deemed as to him to have been voidable only.

Exception.

Proviso.

XX. If any letters of administration, which shall be granted under this Act, shall be revoked upon the production and proof of a will, all payments made or acts done by or under the authority of the Administrator General in pursuance of such

What payments made or acts done by Administrator General prior to revocation of administration upon production of a will, shall be deemed valid.

letters of administration prior to the revocation thereof, which would have been valid under any letters of administration lawfully granted to him with such will annexed, shall be deemed valid, notwithstanding such revocation.

In what cases Court may recal Administrator General's administration and grant probate, &c., to executor or next of kin.

XXI. If an executor or next of kin of the deceased, who shall not have been personally served with a citation, or had notice thereof in time to appear in pursuance thereof, shall establish to the satisfaction of the Court a claim to probate of a will or to letters of administration in preference to the Administrator General, any letters of administration which shall be granted by virtue of this Act to the Administrator General, may be recalled and revoked, and probate may be granted to such executor, or letters of administration granted to such other person as aforesaid. Provided that no letters of administration, which shall be granted to the Administrator General, shall be revoked or recalled for the cause aforesaid, except in cases in which a will or codicil of the deceased shall be proved, unless the application for that purpose shall be made within one year after the grant to the Administrator General, and the Court shall be satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application shall be made.

Unless a will is proved, application to revoke such administration must be made within one year and without needless delay.

Costs of obtaining administration, commission, &c., may on revocation be ordered by Court to be paid to the Administrator General out of the Assets.

XXII. If any letters of administration, which shall be granted to the Administrator General in pursuance of this Act, shall be revoked, the Court may order the Costs of obtaining such letters of administration and the whole or any part of any commission which would otherwise have been payable under this Act, together with the costs of the Administrator General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator General out of any assets belonging to the estate.

After one year from grant of administration distribution of assets by Administrator General to be allowed against all claims of which he had no notice.

XXIII. Any payment or delivery of assets to any legatee, or to any person entitled in distribution, which shall be made by an Administrator General after the expiration of one year from the grant of the letters of administration under

which such payment or delivery shall be made, shall be allowed to the Administrator General as against all creditors and other claimants against the estate, of whose debts or claims he shall not have had notice before making such payment or delivery. Provided that nothing herein contained shall exempt the person to whom such payment or delivery shall be made, from any liability to refund to which he would otherwise be liable, and provided also that no notice of any debt or claim shall affect the Administrator General unless proceedings to enforce the debt or claim be commenced within one month after the giving of such notice and be prosecuted without unreasonable delay.

Person receiving payments liable to refund.

What to be notice of debt or claim.

XXIV. All letters of administration, which shall be granted to any Administrator General in virtue of his office, shall be granted to him by his name of office, and all letters of administration heretofore granted to the Ecclesiastical Registrar or Administrator General officially, or which shall be granted to any Administrator General in virtue of his office, shall authorize the Administrator General for the time being of the same Presidency to act as Administrator of the estate to which such letters of administration shall relate; and all estate, effects and interests, which, at the time of the death, resignation or removal from office of any Administrator General, shall be vested in him by virtue of such letters of administration, shall, upon such resignation or removal, cease to be vested in him, and shall vest in his successor in office immediately upon his appointment thereto; and all books, papers and documents kept by such Administrator General, by virtue of his office, shall be transferred to, and vested in his successor in office.

Letters of administration to be granted to Administrator General in virtue of his office.

Authority given by such letter.

On death, &c., of Administrator General, estate, &c., to vest in successor.

And office books to be transferred.

XXV. All actions, suits or other proceedings, which shall be commenced by or against any Administrator General, in his representative character, may be brought by or against him by his name of office, and no suit, action or other proceedings already commenced,

Administrator General to sue or be sued in his representative capacity by his name of office.

Suit not to abate by death, &c.

or which shall be commenced, against any person as Administrator General, either alone or jointly with any other person, shall abate by reason of the death, resignation or removal from office of any such Administrator General, but the same may, by order of the Court, and upon such terms as to the service of notices or otherwise as the Court may direct, be continued against his successor immediately upon his appointment, in the same manner as if no such death, resignation or removal had occurred. Provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the action or suit against him.

Proviso.

XXVI. The Administrator General of each of the said Presidencies, under any letters of administration which shall be granted to him in his official character, or under any probate which shall be granted to him of a will wherein he shall be named as executor by virtue of his office, and the Administrator General of Madras under any letters of administration which are vested in him by Section V. of this Act, shall be entitled to receive a commission at the following rates respectively, viz:

Commission to be received by Administrators General.

The Administrator General of Bengal at the rate of 3 per cent. and the Administrators General of Madras and Bombay respectively at the rate of 5 per cent. upon the amount or value of the assets which they shall respectively collect and distribute in due course of administration.

XXVII. The commission to which the Administrator General of each of the said three Presidencies shall be entitled, is intended to cover, not merely the expense and trouble of collecting the assets, but also his trouble and responsibility in distributing them in due course of administration. It is therefore enacted, that one-half of such commission shall be payable to and retained by such Administrator General upon the collection of the assets, and the other half thereof shall be payable to the Administrator General who shall distribute any assets in the due course of administration and may be retained by him upon such distribution. The amount of the

What expenses, &c., commission is to cover.

How payable.

Commission retained to be deemed a distribution.

commission lawfully retained by an Administrator General upon the distribution of assets shall be deemed a distribution in the due course of administration within the meaning of this Act.

Commission of the Administrators General of Madras and Bombay may be reduced and again raised.

XXVIII. The Governments of the said Presidencies of Fort St. George and Bombay respectively, may, with the sanction of the Governor General of India in Council, from time to time, order the aforesaid rate of commission hereby authorized to be received by the Administrators General of those Presidencies respectively to be reduced and again to be raised. Provided that the commission so to be received shall not at any time exceed five per cent. of the assets collected, and that no person now holding the office of Administrator General of either of the said Presidencies of Fort St. George or Bombay shall, by any such order, be deprived of the right to receive and retain for his own use, a commission at the rate of three per cent. in respect of all assets collected and actually administered by him.

Proviso.

Administrator General to defray expenses of establishment and all other charges not expressly provided for.

XXIX. The Administrator General shall defray all the expenses of the establishment necessary for his office, and all other charges to which the said office shall be subject, except those for which express provision is made by this Act.

Commission or agency not to be charged by executor or administrator other than the Administrator General.

XXX. No person other than the Administrator General acting officially, shall receive or retain any commission or agency charges for anything done as executor or administrator under any probate or letters of administration, or letters *ad colligenda bona*, which have been granted by the Supreme Court of Judicature at Fort William in Bengal since the passing of Act No. VII. of 1849, or by either of the said other Supreme Courts of Judicature since the passing of Act No. II. of 1850, or which shall hereafter be granted by either of the said Courts; but this enactment shall not prevent any executor or other person from having the benefit of any legacy bequeathed to him in his character of executor, or by way of commission or otherwise.

Specific bequest in favour of executors not affected.

Administrator General to keep a separate account-book for each estate, to be open to inspection, &c., on payment of fee, &c.

XXXI. The Administrator General of each of the said Presidencies shall enter into books, to be kept by him for that purpose, separate and distinct accounts of each estate, and of all such sums of money, bonds, and other securities for money, goods, effects and things, as shall come to his hands, or to the hands of any person employed by him, or in trust for him, under this Act, and likewise of all payments made by him on account of such estate, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively, which said books shall be kept in the Administrator General's Office, and shall be open for the inspection of all such persons, practitioners in the said Courts and others, as may have occasion to inspect the same, at office hours, paying only such reasonable fee as hath been or shall be, from time to time, fixed by the Government, and published in the official Gazette of the Presidency to which the same may relate.

Government may make and alter rules and orders, consistent with this Act.

For custody of assets.

For remittance of money.

For guidance of Administrator General.

XXXII. The Government shall have power, from time to time, to make and alter any general rules and orders consistent with the provisions of this Act, for the safe custody of the assets and securities which shall come to the hands or possession of the Administrator General, and for the remittance to the East India Company at their House in England of all sums of money which shall be payable or belong to persons resident in Europe, or in other cases where such remittances shall be required, and generally for the guidance and government of the Administrator General in the discharge of his duties; and may, by such rules and orders, amongst other things, direct what books, accounts, and statements, in addition to those mentioned in this Act, shall be kept by the Administrator General, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to the estates to be administered by such Administrator General shall be kept and invested or deposited, pending the administration thereof, and how and at what rate or rates of

exchange any remittances thereof shall be made. Unless any such rules shall be made and published, the rules now in force in each of the said Presidencies, so far as the same are not inconsistent with this Act, shall be of the same force and effect as if the same had been made and published under this Act.

Proviso as to rules now in force.

XXXIII. Such orders shall be published in the official Gazettes of the several Presidencies, and it shall be the duty of the several Administrators General to obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

Publication of orders, &c.

XXXIV. The Administrator General of each of the said Presidencies shall, twice in every year—that is to say, on the First day of March, and on the Tenth day of August, or on the first day on which the Supreme Court of Judicature at the Presidency shall be sitting after those days, or on such other days as the Government shall, by any rules or orders to be published as aforesaid, direct—exhibit and deliver, in open Court, a true Schedule showing the gross amount of all sums of money received or paid by him on account of each estate in his charge, and the balances during the period of six months, ending severally on the Thirty-first day of December and Thirtieth day of June next before the day of delivering such Schedule, and a true list of all bonds or other securities received on account of each of the said estates during the same period; and also a true Schedule of all administrations, whereof the final balances shall have been paid over to the persons entitled to the same, during the same period, specifying the amount of such balances, and the persons to whom paid, which Schedules shall be filed of record in such Supreme Court of Judicature, and shall, within fourteen days afterwards, be published in the official "Gazette" of the Presidency by the said Administrator General; and copies thereof in triplicate shall be delivered by such Administrator General to the Secretary of the said Presidency, and shall be sent by the Governor thereof to the Court of Directors of the East India Company, in order that the said Court of Directors may, if they think fit so to do, order the same

Administrator General to furnish half-yearly schedules, &c.

Schedules to be filed and published.

to be deposited at the East India House, London, for public inspection, and may cause notices to be published in the "London Gazette," and other leading newspapers, that such Schedules are open to inspection there, or may make such other orders respecting the same as they may think fit.

Government to appoint Auditors.

XXXV. The Government shall, from time to time, appoint an auditor or auditors to examine the accounts of the Administrator General at the times of the delivery of the said Schedules, and also at any other time when the Government shall think fit.

Auditors to examine Schedule, and report to Government.

XXXVI. The auditor or auditors shall examine the Schedules and accounts, and report to the Government whether they contain a full and true account of everything which ought to be inserted therein, and whether the books which by this Act, are, or which by any such general rules and orders as aforesaid, shall be directed to be kept by the Administrator General, have been duly and regularly kept, and whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or which shall be prescribed by any such rules and orders to be made as aforesaid.

Auditors to have power to summon witnesses and to call for books, &c.

XXXVII. Every Auditor shall have power to summon as well the Administrator General as any other person or persons whose presence he may think necessary, to attend him from time to time; and to examine the Administrator General, or other party or parties, if he shall think fit, on oath or solemn affirmation, to be by him administered; and to call for all books, papers, vouchers, and documents, which shall appear to him to be necessary for the purposes of the said reference: and if the Administrator General or other person or persons when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher or document required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the Auditor or Auditors shall certify such neglect or refusal in writing to the Supreme Court of Judicature at the Presidency; and every person so refusing or neglecting shall thereupon be punishable,

Penalty for non-attendance.

in like manner as if such refusal or neglect had been in contempt of the said Supreme Court.

Costs of preparing Schedule, &c., how to be paid.

XXXVIII. The costs and expenses of preparing and publishing the said Schedules and copies thereof, and of every such reference and examination as aforesaid, shall be defrayed by all the estates, to which such schedules or accounts shall relate, which costs and expenses and the portion thereof to be contributed by each of the said estates, shall be ascertained and settled by the Auditor or Auditors, subject to the approval of the Government, and shall be paid out of the said estates accordingly by the Administrator General.

Auditors to report specially to Government, if accounts appear not correct.

XXXIX. If upon any such reference and examination, the Auditor or Auditors shall see reason to believe that the said Schedules do not contain a true and correct account of the matters therein contained or which ought to be therein contained, or that the assets have not been duly kept and invested or deposited in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the Administrator General has failed to comply with the provisions and directions of this Act or of any such rules and orders, he or they shall report accordingly to the Government.

Proceedings upon such report.

XL. The Government may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency, who shall thereupon, if he shall think fit, proceed summarily against the defaulter or his personal representative in the Supreme Court of Judicature in the Presidency, by petition for an account, or to compel obedience to this Act, or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the estates then or formerly under the administration of such defaulter; and the said Advocate General shall have power to exhibit interrogatories to the said administrator General, or other person or persons defendants, who shall be bound to answer the same as fully as if the same had been contained in a bill filed for the like purpose; and the Court shall have power upon any such petition, to compel the attendance in Court of the defendant or defendants, and any witnesses who may be thought necessary,

and to examine them orally or otherwise as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

Costs of reference, &c., how to be defrayed.

XLI. The costs, including those of the Advocate General, and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or defendants or out of the estates ratcably as the said Court shall direct; and whenever any costs shall be recovered from the defendant or defendants, the same shall be repaid to the estates by which the same shall have been in the first instance contributed, and the Court shall have power to order the Administrator General, or other person or persons, defendants, to receive his or her costs out of the said estates, if it shall think fit.

Orders of the Court to have same effect and to be executed in same manner as decretal orders.

XLII. Any orders which shall be made by any of the said Supreme Courts shall have the same effect, and be executed in the same manner as decretal powers.

In what case Administrator General may grant certificate.

XLIII. Whenever any person not being a Mahomedan or Hindoo, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall, if a British subject, have left personal assets within any of the said Presidencies or any of the Provinces or places subject thereto, or shall, if not a British subject, have left personal assets within the local limits of the jurisdiction of the Supreme Court of Judicature at any of the said Presidencies, and letters of administration of his effects shall not be taken out for three months after his death, and the Administrator General of such Presidency shall be satisfied that such effects do not exceed in the whole five hundred Rupees, he may, if he shall think fit, at any time before the administration of such effects shall be granted, grant to any person claiming to be entitled to a principal share of the effects of the deceased, certificates under his hand, entitling the claimant to receive the sums or securities for money therein severally mentioned, belonging to the effects of the deceased, to the value of any sum not exceeding in the whole five hundred Rupees. [Amended by Act XXVI., 1865, s. 4.]

Administrator General not bound to grant certificate unless satisfied of claimant's title, &c.

XLIV. The Administrator General shall not be bound to grant any such certificate, unless he shall be satisfied of the title of the claimant and of the value of the effects of the deceased, either by the oath, affidavit or solemn affirmation of the claimant (which oath, affidavit or affirmation the Administrator General is hereby authorized to administer or take), or by such other evidence as he shall require.

Certificate with receipt annexed to be a sufficient discharge.

XLV. Any such certificate, with a receipt annexed under the hand of the person to whom the certificate shall be granted, shall be a full discharge for payment or delivery to him or her of the money or security for money therein mentioned, to the person paying or delivering the same: but nothing in this Act shall preclude any executor or administrator of the deceased from recovering from the person receiving the same, the amount remaining in his hands, after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration; and any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the assets received by such person, and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

Proviso.

Administrator General not bound to take out administration on account of effects in respect of which he has granted certificate.

XLVI. The Administrator General shall not be bound to take out letters of administration to the estate of any deceased person on account of the effects in respect of which he shall grant any such certificate, but he may do so if he shall discover any fraud or misrepresentation made to him, or that the value of the estate exceeded five hundred rupees.

Fee for Certificate.

XLVII. For every such certificate the Administrator General shall be entitled to charge a fee calculated after the rate of three rupees in the hundred on the amount mentioned in the certificate.

Penalty for false swearing, &c.

XLVIII. Every person who, having been sworn, or having taken a solemn affirmation under this Act, shall wilfully give false testimony upon any

examination authorized by this Act, shall be deemed guilty of perjury, and, if convicted, shall be liable to be punished accordingly.

Penalty for Trading.

XLIX. It is hereby declared to be a misdemeanour, punishable by fine and imprisonment, for any Administrator General to trade or traffic for his own benefit, or for the benefit of any other person or persons whomsoever, unless so far as shall appear to him to be expedient for the due management of the estates of which letters of administration shall be granted to him, and for the sole benefit of the several persons entitled to the proceeds of such estates respectively; but this exception is not to be construed to alter the civil liabilities of the Administrator General as trustee of such estates.

Exception.

Accumulation of interest in the hands of the Administrator General of Bombay to be transferred to the E. I. Company.

L. And whereas it appears from the books and accounts of the Administrator General of Bombay, that, on the Thirtieth day of June, 1851, there were in in his charge Government Securities and cash, arising from accumulations of interest on estates heretofore administered by or in the charge of the Ecclesiastical Registrar of the Supreme Court of Judicature at that Presidency, over and above the amount of interest heretofore allowed on the administration of such estates, it is further enacted as follows:—The Administrator General of Bombay shall forthwith transfer and pay the said Government Securities and cash balance, and any other Government Securities and cash which, at the time of the passing of this Act, shall or may be in his charge, or under his control, in respect of such accumulations of interest, or any additions thereto, to the Accountant General and Sub-Treasurer of Bombay, to be carried to the account and credit of the East India Company, for the general purposes of Government; and the receipt of the Accountant and of the Sub-Treasurer of Bombay for any moneys or securities so paid or transferred to them under the provisions of this Act, shall be a full indemnity and discharge to the Ecclesiastical Registrar and Administrator General for any such payment or transfer.

In the Madras and Bombay Presidencies, the proceeds of Estates unclaimed for 15 years to be transferred to the East India Company.

LI. The net proceeds of all estates in the official charge of the Administrator General of either of the Presidencies of Fort St. George or Bombay and which now appear, or shall hereafter appear from the official books and accounts

of the ecclesiastical Registrar and of the Administrator General of either of those Presidencies, or from the official books and accounts of either of those Officers, to have been in official custody for a period of fifteen years or upwards, without any claim thereto having been made and allowed, shall be transferred and paid to the Sub-Treasurer of the East India Company at Fort St. George and Bombay respectively, and be carried to the account and credit of the East India Company, for the general purposes of Government; and the receipt of the said Sub-Treasurer and Accountant General shall be a full indemnity and discharge to the said Administrator General for any such payment or transfer. Provided that this Act shall not authorize any transfer or payment of any such proceeds as aforesaid, pending any suit already instituted, or which shall be hereafter instituted, in respect thereof.

Proviso.

LII. If any claim shall be hereafter made to any part of the securities, moneys, or proceeds which shall be carried to the account or credit of the East India Company under the provisions of this Act, and if such claim shall be established to the satisfaction of the Administrator General and Accountant General to the Government of Fort St. George and Bombay, for the time being respectively, the said Accountant General shall direct the Sub-Treasurer of the Presidency to pay, and the said Sub-Treasurer shall thereupon pay, out of the moneys of the East India Company in his custody, to the claimant, the amount of the principal so carried to the credit and account of the said East India Company, or so much thereof as shall appear to be due to the claimant. If the claim shall not be established to the satisfaction of the said Administrator General and Accountant General, the claimant may apply by petition to the Supreme Court at the Presidency against the East India Company and Administrator General of the Presidency for the time being, and after taking evidence, either orally or on affidavit, in a summary way as the said Court shall think fit, the said Court shall make such order on the petition for the payment of such portion of the said principal sum as justice shall require, which order shall be binding on all parties to the suit.

Mode of proceeding by claimant to recover principal money so transferred.

Regulations repealed.

LIII. Section VI., Regulation XV. of 1806, of the Bengal Code, and Section V., Regulation IV. of 1809, of the Madras Code, are hereby repealed.

Zillah Judge in certain cases to take charge of property of a British subject dying within the Zillah, and to report to Administrator General.

LIV. Whenever any British subject shall die leaving personal assets within the limits of the jurisdiction of a Zillah Judge and no will shall be found among the effects of the deceased, it shall be the duty of the Zillah Judge to report the circumstance without delay to the Administrator General of the Presidency, retaining the property under his charge until letters of administration shall have been obtained by the Administrator General or by some other person from the Supreme Court of Judicature, when the property shall be delivered over to the person obtaining such letters of Administration, or in the event of a will being discovered, to the person who may obtain probate of the will.

Construction of Act.

LV. In the construction of this Act, the word "Government" shall be deemed to mean the Governor General of India in Council, so far as the Act relates to the Presidency of Fort William in Bengal, or any place subordinate thereto, and the person or persons for the time being administering the Executive Government of the Presidency, so far as the Act relates to the Presidencies of Fort St. George and Bombay respectively; the words "letters of administration" shall include any letters of administration, whether general or limited, or with a will annexed, and letters *ad colligenda bona.* Words in the masculine gender shall include the feminine; and words in the singular number shall include the plural, and *vice versâ*; unless where such construction would be inconsistent with or repugnant to the context.

Repeal of Acts.

LVI. Acts VII. of 1849 and II. of 1850 are hereby repealed as to all letters of administration which shall hereafter be applied for or granted.

Act not to apply to Administration of estates of soldiers or sailors.

LVII. Nothing in this Act is intended to require the Administrator General to take proceedings to obtain letters of administration to the estate or effects of any officer or soldier or other person subject to any Articles of War, or to the estate or effects of any officer, seaman or other person dying in the Marine Service of the East

India Company, called the Indian Navy, unless when the Administrator General shall be duly authorized or required so to do by the Military Secretary, or other officer having similar powers with regard to the estate or effects of any officer, seaman or other person dying in the Indian Navy; nor is anything in this Act contained intended to interfere with or alter the provisions of any Act of Parliament for regulating the payment of regimental debts and the distribution of the effects of officers and soldiers dying in the Service of the East India Company, or of any Articles of War, or of any Act of Parliament relating to the Indian Navy.

Commencement of Act.

LVIII. This Act shall commence and take effect from the 1st day of March, 1855.

Amended by Act XXVI., 1860. Repealed by Act XXIV., 1867 (The Administrator Generals' Act 1867). The Act is retained for reference in past cases under its operation.

MADRAS.—APPEALS.—PROCEDURE.

Act No. IX. of 1855.

[*Passed on the 25th March*, 1855.

Recites expediency of simplifying, &c., procedure on appeal in Madras.

1. Petition of appeal to be presented within six weeks, and to consist of, what; (Cl. 2) but time may be extended by the Sudder.

2. Notice of petition to be given to respondent and proclamation made, &c.

3. Directs what papers in the cause shall be sent to the appellate Court; (Cl. 2 & 3) and how parties may obtain others.

4, 5. Petition and record to be certified to appellate Court; and (5) grounds of appeal to be filed within 6 weeks afterwards.

6. Notice to be given to respondent to file his grounds; and (Cl. 2) grounds to be filed in 4 weeks; and (Cl. 3) respondent may file cross petition of appeal; and (Cl. 4) with it his grounds of appeal.

7. Record to be deemed complete at the expiration of allowed time; (Cl. 2) notice of respondent's petition to be given; (Cl. 3) objections to it to be filed in 4 weeks, at end of which record to be deemed complete; and (Cl. 4) both appeals to be heard together unless one is dismissed, &c.

8. Respondent not to petition Sudder if he petitioned Court below.

9. Grounds of objection to be numbered, and on stamped paper; (Cl. 2) time for filing may be extended.

10. Grounds of objection may be amended, &c.

11. Court may hear objections to the appeal before calling up the case for hearing; and (Cl. 2) may hear appeal at any time if on points of law only; and (Cl. 3) first on points of law, if they would be decisive of the case.

12. In what manner privilege of appealing in *formâ pauperis* may be obtained; and how appeal to be carried on.

13. On pauper appeal plain paper may be used by both parties.

14. Act not to apply to appeals before 1st May, 1855.

An Act for the amendment of Procedure in cases of regular appeal to the Sudder Court in the Presidency of Fort St. George.

Repealed by Act X., 1861, and superseded on the appointment of the High Courts with the Code of Civil Procedure.

MADRAS AND BOMBAY.—WITNESSES.

Act No. X. of 1855.

[*Passed on the* 21*st March*, 1855.

Recites expediency of amending law relating to attendance, &c., of witnesses.

1. Repeals S. 22, R. 7, and S. 8, R. 12, of 1819, of Madras Code; and S. 40 of Act 19, 1853.

2, 3. Summons of witnesses to issue only on special grounds; and (3) Court may order notice of application for summons to be given.

4. Grounds for summons may be sent in writing; and (Cl. 2) if false, the party punishable.

5, 6. Court may refuse summons on grounds; but (6) must issue it if no cause shown.

7. Parties themselves to be examined only in open Court except by consent.

8. On default of parties themselves appearing as witnesses, &c., the consequences may be, what.

9. Witnesses not bound to produce their own title deed, except, when.

10. Persons not attending as witnesses, to be liable to action for damages.

11. Court to exercise its discretion as to postponing cause for non-attendance of witnesses.

12. Oral evidence to be taken down in open Court, in narrative form, and deposition to be signed by witness.

13. Court may issue commission to examine women entitled to privilege.

14. Parties to suit to be examined in same manner as witnesses.

15. Interpretation of word witness.

16. Order on application for summons not appealable.

17. Documents referred to in pleadings to be filed unless excused.

18. Interpretation clause.
19. Act to come into operation, 1st May, 1855.

An Act to amend the Law relating to the attendance and examination of witnesses in the Civil Courts of the East India Company in the Presidencies of Fort St. George and Bombay, and to amend the provisions of Section XL., Act XIX. of 1853.

Preamble.

Whereas it is expedient to amend the Law relating to the attendance and examination of witnesses in the Civil Courts of the East India Company in the Presidencies of Fort St. George and Bombay, and to amend the provisions of Section XL., Act XIX. of 1853, it is enacted as follows:

Repeal of former Regulations, &c.

I. Section XXII., Regulation VII. of 1809, and Section VIII., Regulation XII. of 1809, of the Madras Code, and Section XL., Act XIX. of 1853, are hereby repealed.

Special application to compel attendance of party to a suit as a witness.

II. If any party to a suit shall require the attendance of any other party thereto as a witness to be enforced, he shall, by himself or his pleader, make a special application to the Court for an order for a summons to compel the attendance of the party, and shall show to the satisfaction of the Court sufficient grounds in support of such application; otherwise a summons shall not be issued. In cases in which, according to the practice of the Court, a day is fixed for the trial, the application shall be made before such day shall be fixed. [See Note at end.]

Court may require notice to be given to a party to show cause why he should not attend.

III. The Court, upon the application of the pleader of any party to a suit whose attendance as witness is required, or without such application, if the Court think fit so to do, may, before making such order, cause notice to be given to the party or his pleader fixing a day for such party to show cause why he should not attend and give evidence, and may also, from time to time, if necessary, for good and sufficient cause, enlarge the time for such purpose. [See Note at end.]

Written declaration of party receivable.

IV. *Clause* 1.—In support of the cause shown, the Court shall receive a declaration in writing of the party, if signed by him, and delivered into the Court by himself or his pleader.

Clause 2.—If the party making such declaration shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against, and, upon conviction, punished accordingly. [See Note at end.]

Penalty for false statement.

V. The Court need not compel the attendance of any party to a suit for the purpose of giving evidence therein, if such party shall satisfy the Court that he has no personal knowledge of any material subject of enquiry in the suit, and that he cannot give material evidence therein. [See Note at end.]

Court not to compel attendance of party to a suit to give evidence, if satisfied that he has no personal knowledge and that he cannot give material evidence.

VI. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall cause a summons to be issued for compelling the party to attend and give evidence. [See Note at end.]

Summons to issue if no sufficient cause shown.

VII. No party to a suit, appeal, or proceeding, who shall offer himself as a witness therein, shall, without the consent of all parties thereto, be examined otherwise than in open Court, in such manner as the Court may direct, having regard to the usages and customs of the country, unless such examination shall be taken under and subject to the Rules prescribed by Section XII. or XIV. of this Act. [See Note at end.]

Mode of examining party to a suit who offers himself as a witness.

Proviso.

VIII. If any witness, being a party to a suit to whom any summons to give evidence or produce a document shall have been personally delivered, shall, without lawful excuse, fail to comply with such summons, or attending, or being present in Court, shall, without lawful excuse, refuse to give evidence, or to subscribe his deposition, or to produce any document in his custody or possession, the Court instead of proceeding in the manner provided by the laws in force in the Presidency in respect of defaulting witnesses, may, if the witness be a plaintiff, appellant, or petitioner, dismiss the complaint, appeal or petition, with costs against such party, or if such party be a defendant or respondent, may hear and decide the case against such defendant or respondent *ex parte*. If any such

Penalty for non-compliance with summons.

complaint, appeal or petition shall be dismissed for such cause, the complainant or petitioner shall be debarred from preferring any other petition, appeal or complaint in respect of the same matter. [See Note at end.]

In what case a witness not being a party to the suit in which he is summoned is bound to produce his title-deeds.

IX. A witness not a party to the suit or proceeding in which he is summoned shall not be bound to produce his own title-deeds, unless he shall have agreed in writing with the party requiring the production thereof, or with some person through whom he claims to produce such deeds.

Person not obeying summons, &c., liable for damages in a civil action.

X. Any person, whether a party to the suit or not, to whom a summons to attend and give evidence or produce a document shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded, or kept out of the way to avoid being served with such summons, and any person who, being in Court, and upon being required by the Court to give evidence or produce a document in his possession, shall, without lawful excuse, refuse to give evidence or sign his deposition, or to produce a document in his possession, shall, in addition to any proceedings to which he would otherwise be subject, be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence or produce the document, for all damages which he may sustain in consequence of such neglect or refusal, or of such absconding or keeping out of the way as aforesaid, to be recovered in a civil action.

Postponing case on account of non-attendance of witness, &c.

XI. It shall not be necessary to postpone the hearing or decision of a case for the non-production of a document, or for the evidence of a witness who may neglect or refuse to attend, or who shall abscond or keep out of the way, or who cannot be served with a summons, beyond such period as shall appear proper to the Court, having regard to all the circumstances of the case;

Proviso.

provided that, when a summons shall have been issued for the attendance of a plaintiff or appellant in a suit to give evidence or produce a document, the Court shall, at the request of the defendant or respondent, unless there be good reason to the contrary, postpone the hearing or de-

cision until the plaintiff or appellant can be personally summoned, or shall attend and give evidence or produce the document required, and that, where a summons shall have been issued for the attendance of a defendant or respondent to give evidence or produce a document the hearing or decision shall, upon the application of the plaintiff or appellant, be postponed in like manner, unless there be good reason to the contrary, until the defendant or respondent can be personally summoned, or shall attend and give evidence or produce the document required. [See Note at end.]

Oral evidence, how to be taken.

XII. In every regular or summary suit, appeal or proceeding in any of the Civil Courts of the East India Company, and also in every summary suit or other proceeding of a Civil nature before any Court, Officer, or other person having by law or consent of parties authority to examine witnesses, the evidence of the attending witnesses shall be taken orally in open Court, in the presence and hearing, and under the personal direction and superintendence of the Judge. The evidence of each witness given upon such examination shall be taken down in writing, by or in the presence and under the superintendence of the Judge, not ordinarily by question and answer, but in the form of a narrative, and when completed shall be read over to the witness, and signed by him in the presence of the Judge and of the parties to the suit or their vakeels, or such of them as may think fit to attend. In case the witness shall refuse to sign the deposition, the Judge shall sign the same, and record the reason, if any, given by the witness for such refusal, together with such remarks thereon as the Judge shall think fit to make. It shall be in the discretion of the Judge to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for doing so, or any party or his vakeel shall require it. If any question put to a witness be objected to by either of the parties or their vakeels, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Judge shall also record such remarks as he may think material respecting the demeanour of any witness whilst

under examination. Provided that it shall not be necessary to take in writing the evidence of witnesses in cases tried by District Moonsiffs in the said Presidency of Fort St. George when the claim shall not exceed 20 rupees, or in cases tried by Village Moonsiffs in the same Presidency. [See Note at end.]

Proviso.

XIII. In cases where the evidence is needed of females, who, according to the custom of the country, ought not to be compelled to appear as witnesses in a Court of Justice, and in which the Court shall be of opinion that the ends of justice require and justify it, such Court may issue a commission to any Officer of the Court or other person, to be named in such commission, for the examination of such females in the hearing of the parties to the suit or their vakeels, in such manner as the Court may direct, having regard to the custom and usage of the country, and with liberty to the parties or their vakeels to cross-examine, anything in Section V., Act VII. of 1841, to the contrary notwithstanding. [See Note at end,]

Evidence of Purdah Nusheen women.

XIV. Any party to a suit, appeal or proceeding, who may be examined as a witness therein, shall be examined according to the rules for the time being in force as to the examination of witnesses not being parties to the suit, and shall be punishable for any false evidence given by him, in the same manner as if he were not a party. [See Note at end.]

By what rules a party to a suit is to be examined, and how punishable for false evidence.

XV. The words "witness" and "witnesses" in Act VII. of 1841 shall respectively include any party or parties to a suit, and the said Act shall be read as if the words "or parties" had been used in such Act, in conjunction with the words "witness" or "witnesses" respectively. Provided that the deposition of a party taken under the provisons of this Section, at the instance of any opposite party, may be read in evidence by, or on behalf of such last-mentioned party, without the proof required by Section V. of the said Act. Provided also that no deposition of any party taken under the provisions of this Section shall be read or used in evidence unless taken and read at the instance of some opposite party, or unless it shall be proved that the deponent is unable, from sickness or

Interpretation of word "witness" in Act VII. of 1841.

Proviso.

infirmity, to attend to be personally examined, or is, without collusion or any reference to the suit, at so great a distance from the Court, that, in the judgment of the Court, it would be unreasonable to require his personal attendance in Court for the purpose of giving such evidence in which last-mentioned case it shall be descretionary with the Court, having regard to the nature of the case and of the evidence given, either to allow or to refuse such deposition to be read. [See Note at end.]

No appeal from Judge's order as to summons, &c.

XVI. No appeal shall lie from any order or decision of a Judge with respect to summoning or examining any party to a suit, or as to allowing a deposition to be read under the Section next preceding. [See Note at end.]

Document referred to in pleading to be filed.

XVII. If any party to a suit in any Civil Court of the East India Company, in either of the said Presidencies or in the Presidency of Fort William in Bengal shall, in any plaint, answer or other pleading, refer to any document in his possession or power, not being a shop book or book of account, as a material proof or document in support of his claim or defence, he shall file such document with such plaint, answer or other pleading, and no such plaint, answer or other pleading shall be received without such document, unless, upon good and sufficient cause shown, the Court shall excuse its non-production or enlarge the time for producing it; and any adverse party shall be entitled, by himself or his vakeel, to inspect and take a copy of the document. [See Note at end.]

Interpretation Clause.

XVIII. In the construction of this Act, unless where it is otherwise expressly provided, or there is something in the subject or context repugnant to such construction, or which would render such construction inapplicable to the case, the word "Court" shall mean any Civil Court of the East India Company, and the word "Judge" shall include any officer or person having, by law or consent of parties, authority to examine witnesses and to act judicially; the word "suit" shall be deemed to mean and include any suit, appeal, or proceeding; the word "witness" shall include all persons competent and liable to give evidence, whether parties to any suit or proceeding, or not. Words importing the masculine gender or

singular number shall include the feminine gender or plural number, and *vice versâ*. [See Note at end.]

Act when to operate.

XIX. This Act shall come into operation on the 1st day of May, 1855.

Act X., 1861, repeals the whole of this Act except Sections 9 and 10. The repeal is limited to parts to which the Code of Civil Procedure is extended.

MESNE PROFITS AND IMPROVEMENTS.—ENGLISH LAW.

ACT NO. XI. OF 1855.

[*Passed on the 27th March*, 1855.

Recites expediency of limiting title to mesne profits.

1. *Bonâ fide* payment of rents, &c., to person of whom the payer held, to be valid against claim of any other person

2. Person evicted from lands by owner having superior title, to be paid for improvements.

3. Act applicable only to cases under English Law.

An Act relating to mesne profits and to improvements made by holders under defective titles in cases to which the English Law is applicable.

Preamble.

Whereas it is expedient, in cases to which the English Law is applicable, to limit the liability for mesne profits, and to secure to *bonâ fide* holders under defective titles the value of improvements made by them, it is enacted as follows:

No person to be chargeable with rent *bonâ fide* paid to a holder under defective title

I. No person shall be chargeable with any rents or profits of any immoveable property which he has *bonâ fide* paid over to any person of whom he *bonâ fide* held the same, notwithstanding it may afterwards appear that the person to whom such payment was made, had no right to receive such rents or profits.

Value of improvements made by *bonâ fide* holders under defective titles secured to them.

II. If any person shall erect any building or make an improvement upon any lands held by him *bonâ fide* in the belief that he had an estate in fee simple, or other absolute estate, and such person, his heirs or assigns, or his or their under-tenants, be

evicted from such lands by any person having a better title, the person who erected the building or made the improvement, his heirs or assigns, shall be entitled either to have the value of the building or improvement so erected or made during such holding and in such belief, estimated and paid or secured to him or them, or, at the option of the person causing the eviction, to purchase the interest of such person in the lands at the value thereof irrespective of the value of such building or improvement. Provided that the amount to be paid or secured in respect of such building or improvement shall be the estimated value of the same at the time of such eviction.

Value how to be estimated.

III. Nothing in this Act contained shall extend to any case to which the English Law is not applicable.

Act to apply only to cases governed by English Law.

COMPENSATION FOR PERSONAL WRONGS AGAINST DECEASED.

ACT No. XII. OF 1855.

[*Passed on the 27th March*, 1855.

Recites expediency of making certain wrongs survive to or against executors.

1. Personal representatives of deceased may sue for wrongs committed in deceased's lifetime, whereby his estate suffered loss; and may be sued for wrongs committed by him; action to be brought within a year after death.

2. Actions under this Act not to abate by reason of death of any party.

An Act to enable Executors, Administrators or Representatives to sue and be sued for certain wrongs.

Preamble.

Whereas it is expedient to enable Executors, Administrators or Representatives in certain cases to sue and be sued in respect of certain wrongs which, according to the present Law, do not survive to or against such Executors, Administrators or Representatives, it is enacted as follows:

Executors may sue and be sued in certain cases for wrongs committed in the life-time of a deceased person.

I. An action may be maintained by the Executors, Administrators or Representatives of any person deceased, for any wrong committed in the life-time of such person, which has occasioned pecuniary loss to his estate, for which wrong

an action might have been maintained by such person, so as such wrong shall have been committed within one year before his death, and provided such action shall be brought within one year after the death of such person; and the damages, when recovered, shall be part of the personal estate of such person. And further, an action may be maintained against the Executors or Administrators or Heirs or Representatives of any person deceased, for any wrong committed by him in his life-time for which he would have been subject to an action, so as such wrong shall have been committed within one year before such person's death, and so as such action shall be commenced within two years after the committing of the wrong; and the damages to be recovered in such action shall, if recovered against an Executor or Administrator bound to administer according to the English Law, be payable in like order of administration as the simple contract debts of such person.

Death of either party not to abate suit.

II. No action commenced under the provisions of this Act shall abate by reason of the death of either party, put the same may be continued by or against the Executors Administrators or Representatives of the party deceased. Provided that, in any case in which any such action shall be continued against the Executors, Administrators or Representatives of a deceased party, such executors, Administrators or Representatives may set up a want of assets as a defence to the action, either wholly or in part, in the same manner as if the action had been originally commenced against them.

Proviso.

COMPENSATION FOR DESTRUCTION OF LIFE.

Act No. XIII. of 1855.

[*Passed on the* 27*th March*, 1855.

1, 2. Gives action for damages where death ensues from wrongful act of another, although amounting to felony; damages recovered to be part of the personal estate of deceased. And such action to lie against executors, if wrongdoer dead; but (2) only one such action to be brought; and damage may be recovered for loss to estate.

3. Plaint to give full particulars of cause of action, &c.

4. Interpretation clause.

An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.

Preamble.

Whereas no action or suit is now maintainable in any Court against a person who by his wrongful act, neglect or default, may have caused the death of another person, and it is often times right and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him, it is enacted as follows:

Action for compensation to the family of a person for loss occasioned to it by his death by actionable wrong.

I. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensued, shall be liable to an action or suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime. And it is enacted further, that every such action or suit shall be for the benefit of the wife, husband, parent, and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the Executor, Administrator, or Representative of the person deceased; and in every such action the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered, after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct.

Not more than one action to be brought: to be commenced within twelve months.

II. Provided always that not more than one action or suit shall be brought for and in respect of the same subject matter of complaint, and that every such action shall be brought within twelve calendar months after the death of such deceased person; provided that in any such action or suit, the Executor, Administrator, or Representative of the deceased may insert a claim for and recover any pecuniary loss to the Estate of the deceased occasioned by such wrongful

Claim for loss to the estate may be added.

act, neglect, or default, which sum, when recovered, shall be deemed part of the assets of the Estate of the deceased.

Plaintiff shall deliver particulars, &c.

III. The plaint in any such action or suit shall give a full particular of the person or persons for whom or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

Construction of Act.

IV. The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context, or by the nature of the subject matter, that is to say, words denoting the singular number are to be understood to apply also to a plurality of persons or things; and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother, and grandfather and grandmother; and the word "child" shall include son and daughter, and grandson and granddaughter, and step-son and step-daughter.

MADRAS.—MILITARY BAZAARS.

ACT No. XIV. OF 1855.

[*Passed on the 27th March*, 1855.

Only persons registered as Military bazaar-men within Military cantonments allowed to sue in Court of Superintendent of Police.

An Act for the better regulation of Military Bazaars in the Presidency of Fort Saint George.

Preamble

Whereas it is desirable to extend the provisions of Act XII. of 1842 to persons suing for the recovery of debts before Superintendents of Police, under the provisions of Regulation VII. of 1832 of the Madras Code, it is enacted as follows:

Debt, &c, not recoverable under Clause 3 of Section XXI. of Regulation VII, 1832, of Madras Code, unless person suing has been registered as a Military Bazaar man.

I. No person residing within the limits of any Military Cantonment, or carrying on any trade or business therein, shall be allowed to recover in the Court of the Officer in charge of the Police, under the provisions of Clause 3, Section XXI. of Regulation VII. of 1832 of the

Madras Code, any debt contracted in the way of trade, or for the loan of money, within any such Cantonment by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall, at the time of contracting thereof, have been registered as a Military Bazaar-man within any such Cantonment.

BOMBAY.—POLICE.

ACT No. XV. OF 1855.

[*Passed on the 27th March,* 1855.

1, 2. G. of B. in C. may appoint a Joint Police Officer under R. 3 of 1833; and (2) may exempt any Joint Police Officer from ss. 2 and 3 of said Regulation.

An Act to amend Regulation III. of 1833 of the Bombay Regulations.

Repealed by Act XVII., 1862.

BOMBAY.—BADGES.

ACT No. XVI. OF 1855.

[*Passed on the 27th March,* 1855.

1. Repeals s. 6, Cl. 3, R. 23 of 1827.
2. Prohibits the wearing of belts and badges, &c., resembling those worn by servants of Government, or any not bearing in current language the name of the employer.
3. Establishes fine not exceeding 100 Rs. for offence.

An Act to amend the Law in force in the Presidency of Bombay concerning the use of Badges.

Preamble.

Whereas it is expedient to amend the provision of the Bombay Code which prohibits the use of badges by persons not in the employ of Government, it is enacted follows:

Regulation repealed.

I. Section VI., Chapter 3, Regulation XXIII. of 1827 of the Bombay Code is repealed.

Repealed by Act XVII., 1862.

STRAITS' SETTLEMENTS.—COPPER CURRENCY.

ACT No. XVII. OF 1855.

[*Passed on the 29th May*, 1855.

Recites that Company's rupee is a legal tender in the Straits' Settlements, but not copper coin except half pice.

1. Repeals ss. 1, 2, and 5 of Act 6, 1847, as to pice, double pice and pies; and extends ss. 1, 2, and 4 of Act 22, 1844, to Straits' Settlements.

2. Pice to be legal tender for 140th, double pice for 70th, and pie for 420th, and a half pice for 280th part of a dollar.

3. Copper coins to be legal tender only for fractional parts of a rupee or dollar.

An Act to improve the law relating to the Copper Currency in the Straits.

Preamble.

Whereas the Company's Rupee is by Act XVII. of 1835 a legal tender in satisfaction of all engagements in the Settlement of Prince of Wales' Island, Singapore, and Malacca, but no copper coin, except the half pice issued under Act XI. of 1854, is now by law legal tender for fractions of a Rupee in that Settlement; and it is expedient to remedy this defect in the law; and whereas besides the Rupee the Dollar is by custom current in the said Settlement; and it is therefore expedient to provide that the copper currency which will be legal tender in the said Settlement for fractions of a Rupee shall also be legal tender in the said Settlement for fractions of a Dollar, it is enacted as follows:

Acts repealed.

I. Sections I., II., and V. of Act VI. of 1847, are hereby repealed, in so far as they relate to copper pice, double pice, and pies coined in accordance with Act XXII. of 1844, or Act XXI. of 1835: but in so far as they relate to all other copper coins, the said Sections shall remain in full force. And the provisions of Sections I., II., and IV. of Act XXII. of 1844, so far as they are now in force, are hereby extended to the Settlement of Prince of Wales Island, Singapore, and Malacca, where they shall have effect, any thing in Act VI. of 1847, to the contrary notwithstanding.

Pice legal tender for Dollars.

II. From and after the First day of July, 1855, within the said Settlement, a pice coined according to Act XXII. of 1844 shall be legal tender for

one one hundred and fortieth part of a Dollar, and a double pice so coined shall be legal tender for one-seventieth part of a Dollar; and a pice so coined shall be legal tender for one four hundred and twentieth part of a Dollar; also a half-pice coined according to Act XI. of 1854 shall be legal tender for one two hundred and eightieth part of a Dollar.

Proviso.

III. Provided always, and it is hereby enacted, that no copper coins within the said Settlement shall be legal tender except for fractions of a Rupee, or fractions of a Dollar.

PARDONS AND REPRIEVES.

Act No. XVIII. of 1855.

[*Passed on the 6th June*, 1855.

Recites doubts as to power of Government to grant pardons, &c., to convicts of H. M.'s Courts, and consent of H. M. to the passing of this Act.

1. Empowers the Presidency Governments to grant pardons, reprieves, &c.

2, 3. Saves the provisions of 16 and 17 V., c. 95, and 17 and 18 V., c. 77; and (3) the prerogative right of the Crown to grant pardons, &c.

An Act to remove doubts relating to the power to grant Pardons and Reprieves and Remissions of Punishments in India.

Preamble.

Whereas doubts have arisen as to the power of the several Executive Governments in India to remit punishments awarded by Her Majesty's Supreme Courts of Judicature, and it is desirable that all doubts respecting the power to pardon or reprieve or grant remissions of punishment should be removed, it is declared and enacted as follows: (The sanction of Her Majesty to the passing of this Act having been previously obtained and signified in pursuance of an Act passed in the 17th year of the reign of Her said Majesty, entitled "An Act to provide for the Government of India.")

Executive Government of a Presidency declared to have power to grant pardons for offences committed therein.

1. The person or persons for the time being authorized to administer the Supreme Executive Government in any Presidency or place within the Territories in the possession and under the Government of the East India Company

have power to grant pardons and reprieves in respect of any crime or offence committed within such Presidency or place, or to remit the whole or any part of the punishment awarded in respect of any such crime or offence, whether the same be awarded by any of Her Majesty's Supreme Courts of Judicature or by any other Court or Officer exercising jurisdiction within the said Territories.

Or to remit punishment awarded by Supreme Court of Judicature or any other Court, &c., in respect of such offences.

II. Nothing in this Act shall be construed to intefere with the provisions contained in the Statutes of the Imperial Parliament 16 and 17 Vic., c. 95, and 17 and 18 Vic., c. 77, or any other Statute, which empower the Governor General of India in Council, with the sanction therein mentioned, to limit the extent of the authority of the Lieutenant-Governors and other persons therein named; and in every such case, the aforesaid power of granting pardons and reprieves and remissions of punishment in case, and so far as the same may be excepted from the authority of the said Lieutenant-Governors or other persons, may be exercised by the Governor General of India in Council.

Act not to affect the provisions of the statutes empowering the Governor General in Council to limit the authority of Lieutenant-Governors, &c.

The power of granting pardons, &c. may be exercised by the Governor General in Council, so far as it is excepted from the authority of Lieut.-Governors, &c.

III. Nothing in this Act shall be construed to interfere with the undoubted right of Her Majesty to grant pardons, or reprieves, or remissions of punishment in any of the cases above-mentioned.

Act not to interfere with the prerogative of the Crown to grant pardons.

MADRAS.—DISTRICT MOONSIFFS.

Act No. XIX. of 1855.

[*Passed on the 24th July*, 1855.

1. Repeals s. 7, cl. 3; s. 12, cl. 1, part of cl. 2; ss. 29 and 40, R. 6, 1816, Madras Code.

2, 3. Modifies s. 11, cl. 1, R. 6, 1816, and (3) s. 22 of same Regulation.

4, 5. Empowers District Moonsiffs to enforce the attendance of witnesses; and (5) to try and punish persons resisting their process.

6, 7. Extends to D. M.'s Courts s. 10, cls. 2, 3 and 4, R. 15, 1816; also (7) s. 6, cl. 2, R. 15, 1816, as respects reviews of judgment except as to stamp.

8. Orders of D. M. appealable to Zillah Judge.

An Act to amend the Law relating to District Moonsiffs in the Presidency of Fort St. George.

Preamble.

Whereas it is expedient, for the better administration of justice, to amend the law relating to District Moonsiffs in the Presidency of Fort St. George, it is enacted as follows:

Certain parts of Regulation VI. of 1816, of the Madras Code, repealed.

I. Clause 3rd, Section VII.; Clause 1st, Section XII.; and so much of Clause 2nd of the same Section as prohibits District Moonsiffs from trying suits in which persons employed in their Cutcherries may be parties; Section XXIX., and Section XL., Regulation VI. of 1816, of the Madras Code, are repealed.

Clause 1st, Section IX., of the same Regulation, modified.

II. Clause 1st, Section XI. of the said Regulation is modified as follows:—Any suit cognizable by a District Moonsiff's Court may be heard and determined by any such Court to which it may be preferred, when the cause of action shall have arisen, or the Defendant, at the time of the commencement of the suit, shall reside, as a fixed inhabitant, within the local limits of the jurisdiction of the Court; provided that, if an action be brought against several Defendants, of whom one shall be resident, as a fixed inhabitant, within the local limits of the jurisdiction of the Court, within the jurisdiction of which the cause of action shall have arisen, the action shall be brought in that Court.

Power of District Moonsiffs to require security from Defendants, &c.

III. Section XXII. of the said Regulation is modified as follows:—District Moonsiffs are empowered, when they think fit, to require security from Defendants, in preference to attaching their property under the circumstances described in the aforesaid Section, and to release property attached, on sufficient security being tendered by Defendants.

Powers of subordinate Zillah Courts for enforcing the attendance of witnesses may be exercised by District Moonsiffs.

IV. All powers which may be lawfully exercised by subordinate Zillah Courts for enforcing the attendance of witnesses summoned to appear in such Courts, may be exercised by District Moonsiffs for enforcing the attendance of witnesses summoned to appear in their Courts.

V. Repealed by Act XVII., 1862.

Clauses 2, 3, & 4, Section X., Regulation XV. of 1816, of the Madras Code, extended to District Moonsiffs' Courts.

VI. Clauses 2nd, 3rd, and 4th, Section X., Regulation XV. of 1816, of the said Code, shall be applicable to the Courts of District Moonsiffs.

Also part of Clause 2, Section VI., of the above Regulation.

VII. Clause 2nd, Section VI., Regulation XV. of 1816, of the said Code, relating to reviews of judgment, shall be applicable to the Courts of District Moonsiffs, except that the petition for a review need not be written upon stamped paper. Provided that, if a District Moonsiff shall be of opinion that a review of his judgment ought to be granted, he shall report the case to the Judge of the Zillah, who may permit such review, under the same rules as are prescribed in regard to similar applications to the Court of Sudder Adawlut.

Proviso.

All orders of District Moonsiffs under this Act open to appeal.

VIII. All orders which may be passed by a District Moonsiff under this Act are open to appeal to the Zillah Judge, if preferred within the time fixed for regular appeals.

MADRAS.—BOUNDARY MARKS.

Act No. XX. of 1855.

[*Passed on the 24th July*, 1855.

1, 2, 3, 4. Empowers Collector, &c., to fix boundaries of fields, &c., (2) giving notice to conterminous holders: and (3) on default of owners, &c., to erect and repair boundary marks: how costs are to be apportioned; and (4) Government to pay the cost, in case of unoccupied fields.

5. Establishes penalty for erasing, removing or injuring boundary marks.

6. Persons objecting to a boundary being fixed may complain to Collector, &c.

7. Establishes penalty against occupiers, &c., who refuse to attend on summons of Collector, &c.

8. Proceedings to be in writing, when; and appeal to be, when.

An Act for the establishment and maintenance of Boundary-marks in the Presidency of Fort St. George.

Repealed by Act XXVIII., 1860, s. 1.

MADRAS.—MINORS.

ACT No. XXI. OF 1855.

[*Passed on the 9th August*, 1855.

Recites insufficiency of laws to insure the proper education of minors under Court of Wards.

1, 2, 3. Gives the education of male minors to Collector, subject to Court of Wards; who (2) may direct, where, and with whom such minor shall reside for education; and (3) may put minor under a private tutor.

4. Expense of education to be paid out of profits of estate.

5, 6. Court of Wards may remove guardian with whom Collector is dissatisfied; but (6) after removal to continue liable for receipts, &c., during his guardianship.

7. Confers the right of custody of the minor on the person appointed by Court of Wards.

8. If younger brothers are entitled to maintenance, the provisions of this Act to apply to them.

9. Persons abetting marriage of minor without consent of Collector to be liable to fine.

10. Orders of Collector appealable to Court of Wards.

An Act for making better provision for the education of Male Minors, and the marriage of Male and Female Minors, subject to the superintendence of the Court of Wards in the Presidency of Fort St. George.

Preamble.

Whereas the existing laws are found insufficient to insure the proper education of Male Minors subject to the superintendence of the Court of Wards, and it is expedient to make further and better provision for the education of such persons and their younger brothers, and for the exercise of a control over the marriages of all Minors under the superintendence of the Court of Wards, it is enacted as follows:

General control and superintendence of the education of Male Minor Wards vested in Collectors of Revenue.

I. The general superintendence and control of the education of every Male Minor, whose property has been, or shall be brought, under the management of the Court of Wards, in and for any part of the Presidency of Fort St. George, by virtue of any Act or Regulation which now is, or hereafter shall be, in force, is hereby vested in the Collector of Revenue, acting under the said Court of Wards, in the Zillah or District wherein such Minor's estate is situate; or, if such Minor is possessed of immoveable property in different districts, in such one of the Collectors of Revenue of such districts as the said Court of Wards shall select.

Collectors to have power to cause Male Minor Wards to be educated at any School or College.

II. It shall be lawful for every Collector of Revenue, in whom the superintendence of the education of any Minor is vested by this Act, to direct that such Minor shall reside, either with or without his guardian, at the Sudder Station of the district, or at any other place within the said Presidency, and shall attend, for the purposes of education, such School or College as to the said Collector may seem expedient; and to make such provision as may be necessary for the proper care and suitable maintenance of the said Minor whilst attending such School or College. [By Act XIV., 1858, s. 2, same powers given to Zillah Judge.]

Or in certain cases to cause such Wards to be educated by a private tutor.

III. If it shall appear to the Collector inexpedient to place any such Minor at a School or College, he shall cause such Minor to be educated by a private tutor, properly qualified either at the family residence of such Minor, or at the Sudder Station, or elsewhere within the said Presidency, and in that case also the Collector shall have power to determine from time to time the place of residence of such Minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education. [By Act XIV., 1858, s. 2, same powers given to Zillah Judge.]

Charges and expenses incurred under this Act to be paid out of the profits of the Ward's estate.

IV. All charges and expenses which may be incurred on account of any Male Minor Ward under the provisions of this Act, for College or School fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home, or otherwise, shall be defrayed from the profits of his estate, in the same manner as other expenses incurred under the authority, or with the sanction of the Court of Wards. [By Act XIV., 1858, s. 2, same powers may be exercised by Zillah Judge.]

Court of Wards to have power to remove guardians for disobedience to orders passed by a Collector under this Act.

V. It shall be lawful for the Court of Wards, on the application of a Collector, to remove from office any guardian who shall neglect or refuse to obey, or shall evade compliance with any orders passed or directions given by such Collector under the provisons of this Act, and to cause a new

guardian to be appointed in his place, whether the person so removed shall have been first invested with the guardianship of the Minor upon the nomination of a Collector acting under the Court of Wards, or by a testamentary appointment confirmed by the Court of Wards. [By Act XIV., 1858, s. 2, same powers given to Zillah Judge.]

Continued liability of guardian removed: powers and responsibilities of new guardian.

VI. The guardian so removed shall, notwithstanding his removal, continue liable to account to the Collector for his receipts and disbursements during the period of his guardianship, and every guardian, appointed in the place of a guardian so removed, shall be chosen in the same way, and shall have the same rights and powers, and be subject to the same responsibilities, as persons originally appointed to be guardians of Minors by a Collector of Revenue acting under the Court of Wards.

The right to the custody of the person of a Male Minor to be vested in guardian appointed by the Court of Wards, or, failing him, in the Collector.

VII. The right to the custody of the person of any Male Minor, whose property is under the management of the Court of Wards, is hereby vested in the person appointed with the sanction of the Court of Wards, either originally or upon the removal of a former guardian to be the guardian of such Minor, or, in the absence of any such person, the Collector of Revenue having the superintendence of the education of such Minor under the provisions of this Act.

The foregoing Sections applicable also to the younger brothers of Wards.

VIII. Whenever a Minor, whose property is under the management of the Court of Wards, has a younger brother or brothers, entitled to maintenance at the charge of the estate, all the powers and provisions hereinbefore contained for promoting the education of such Minor are hereby declared and made applicable to such younger brother or brothers.

Penalty for abetting marriage of Ward without leave of Collector.

IX. Whoever knowingly aids or abets the marriage of any Minor, whose property is under the superintendence of the Court of Wards, or the marriage of a younger brother or sister of such Minor, without the leave of the Collector of Revenue acting under the Court of Wards to such marriage first had and obtained, shall, on conviction before a Court of Session, upon the

prosecution of such Collector, be liable to a fine not exceeding two thousand Rupees, or to imprisonment not exceeding the term of six months, with or without hard labour.

Appeal from the orders of a Collector to lie to a Court of Wards.

X. All orders and proceedings of a Collector under the provisions of this Act shall be subject to the revision of the Court of Wards, and every person aggrieved by any such order or proceeding may refer an appeal therefrom to the Court of Wards.

Extended to Minors not subject to the Court of Wards, by Act XIV., 1858.

PORTS AND PORT-DUES.

Act No. XXII. of 1855.

[*Passed on the* 13*th August*, 1855.

1. Repeals Act 1, 1852, s. 21, and Schedule C.

2. Abrogates Bengal R. 7, 1801; Bombay R. 2, 1810; Bengal R. 3, 1833, s. 12; Acts 13, 1839; 1, 1852, s. 39; 13, 1852, ss. 42, 43; and Act 11, 1853, as to removal of obstructions, &c.

3, 4, 5. Local Government may declare any Port or river to be under this Act; and (4) such declaration shall define the limits of Ports, &c.; and (5) may alter limits.

6, 7. Local Government may appoint Conservator of Port; and (7) make rules for purposes specified.

8. Declarations and orders of Local Government to be published in Government Gazette.

9. Establishes penalty for disobedience of orders.

10. Conservator to give directions for enforcement of rules.

11. Establishes penalty for non-obedience, &c., to directions.

12. Special rule to prohibit the movement of vessels in port without having Pilot, &c., on board.

13. Master to permit warps to be fastened to his vessel.

14. Establishes penalty for leaving warp or hawser after sunset, so as to be dangerous.

15. Conservator may in case of urgent necessity cut warps, &c.

16. Establishes penalty for causing obstruction to the navigation.

17, 18. Empowers Conservator to remove timbers, &c., impeding the navigation; and (18) the owner of the timber, &c., to pay expenses of removal, or same may be sold, &c.

19. Lawful obstructions to be reported to Government, for removal with compensation.

20. Establishes penalty for lifting, injuring, or loosening buoys, &c.

21. Prohibits masters lifting buoys, &c., of which they have got foul without orders of Conservator.

22. Establishes penalty for removing vessel from moorings.

23. Vessels wrecked, stranded, &c., so as to cause obstruction, may be removed or destroyed, &c.

24. Establishes penalty for throwing ballast or rubbish into port, &c.

25, 26, 27. Establishes penalty for graving, breaming, or smoking vessel contrary to orders, &c.; and (26) for boiling or heating pitch, &c., on board vessel; and (27) for drawing spirits by candle-light, &c.

28. Requires vessels exceeding 200 tons to be provided with forcing pump, &c., for extinguishing fire.

29, 30, 31, 32. Within certain limits vessels not to have more than 50 lbs. of gunpowder on board, &c.; and (30) Government may prescribe times for landing and depositing combustibles; and (31) master to sign declaration of quantity of combustible on board; and (32) receipt to be given for gunpowder deposited.

33. Bad weather an excuse for landing gunpowder only while it lasts.

34. Government may fix times and places for shipping gunpowder, &c.

35. Establishes penalty for having gunpowder on board contrary to Act.

36. Prohibits the discharge of fire-arms, except for signal, &c.

37. Prohibits persons without authority from sweeping, &c, for anchors, &c.

38. Entitles officers to salvage on anchors, wrecks, &c.

39. Property unclaimed, or whose owner refuses to pay charges, may be sold.

40. Prohibits the removal of rock, stones, &c, from bank, &c., of river, and the sinking of posts, &c.

41, 42, 43. Abolishes existing tolls at end of one year; and (42) empowers local Government to vary rates of tolls; and (43) to remit existing rates before new ones come into operation.

44. Directs what accounts shall be kept.

45. Port-dues to be paid to Collector, who shall grant receipt.

46. Master of vessel to report arrival within 24 hours.

47, 48. Authorises Conservator to ascertain draught of vessel; and (48) to require production of register to ascertain tonnage, and may measure certain vessels.

49. Port-dues if not paid may be levied by distress on tackle, &c.

50. Port clearance not to be granted till dues are paid.

51. Authorises Conservator to board vessel.

52. Establishes penalty for obstructing officer.

53. Authorises Harbour Master, &c., to carry out this Act.

54. Establishes penalty for hoisting colors contrary to Statute.

55, 56, 57, 58, 59. Magistrate may proceed summarily for offences against this Act; and (56) to award costs against offender; and (57) his jurisdiction to extend to damages up to 1,000 Rupees; and (58) costs of distress and sale may be recovered; (59) the amount of costs to be determined by magistrate.

60. Act not to apply to vessels of H. M. or E. I. Co.
61. E. I. Co. not to be answerable for acts of its officers.
62, 65. Interpretation clauses.
63. Gives Magistrates of adjoining jurisdictions, jurisdiction under this Act.
64. Convictions not to be quashed for want of form, &c.
65. Ante.

An Act for the Regulation of Ports and Port-dues.*

Preamble.

Whereas it is expedient to provide for the safety of Vessels, and for the convenience of traffic in the several Ports within the Territories in the possession and under the Government of the East India Company, and in navigable Rivers and Channels leading to such Ports, and for the improvement, maintenance, and good government of such Ports, Rivers, and Channels; also to regulate the levy of Port-dues, or charges in such Ports, Rivers, and Channels, in order to defray the cost of such improvement, maintenance, and good government; and to punish the unlawful use of certain flags and colors in such Ports, Rivers, and Channels; and whereas it is expedient to abolish the Anchorage dues heretofore levied in the Presidency of Bombay, it is enacted as follows:

Repeal of part of Act I. of 1852.

I. Section XXI. of Act I. of 1852, and Schedule C. appended to that Act, are hereby repealed.

Operation of certain laws to cease in Ports, &c., declared subject to this Act.

II. Regulation VII. of 1801 of the Bengal Code; so much of Regulation II. of 1810 of the Bombay Code as is still in force; Section XII., Regulation III., 1833, of the Bengal Code; Act XIII. of 1839; Section XXXIX. of Act I. of 1852; Sections XLII. and XLIII. of Act XIII. of 1852; and Act XI. of 1853, so far as it relates to the removal of any obstruction, impediment, or public nuisance affecting, or likely to affect, the navigation of the Port of Bombay—shall cease to be in force in any Port, River, or Channel in which the same respectively are now in force, from the time when such Port, River or Channel shall be declared to be subject to this Act.

To what places this Act applies.

III. The Local Government of any part of the said Territories may, with the sanction of the Governor General of India in Council, declare any

* See Note at end.

Port within that part of the said Territories to be subject to this Act; and any navigable River or Channel leading to that Port to be subject to this Act. When any such Port or navigable River or Channel has been so declared to be subject to this Act, all the provisions of this Act, except such as are hereinafter made especially applicable to certain Ports by order of the Local Government, shall have effect in that Port or navigable River or Channel.

Limits of such places, how to be fixed

IV. Every declaration, by which any Port, navigable river, or Channel shall be made subject to this Act, shall define the limits of such Port, navigable River, or Channel; and such limits shall extend always up to high-water mark, and may include any piers, jetties, landing places, wharfs, quays, docks, and other works made for any of the purposes mentioned in the preamble of this Act, whether within or without the line of high-water mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark.

Limits how to be altered

V. The Local Government may from time to time, with the sanction of the Governor General of India in Council, alter the limits of such Port, River or Channel.

Appointment of Conservator

VI. The Local Governor shall appoint an Officer to be Conservator of every Port, River, or Channel subject to this Act. In Ports where there is a Master Attendant such Master Attendant shall be the Conservator. In Ports where there is no Master Attendant, but where there is a Harbour Master, the Harbour Master shall be the Conservator. In Ports where there are both a Master Attendant and a Harbour Master, the Harbour Master and his Assistants shall be subordinate to and subject to the control of the Master Attendant and his Assistants. The Conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

Local Government empowered to make Port rules

VII. The Local Government, with the sanction of the Governor General of India in Council, may from time to time make such Port-rules, not inconsistent with this Act, as it may think necessary for any of the following purposes, namely:—

1. For regulating the time at which, and the manner in which, vessels shall enter into or go out of any Port subject to this Act.

Entering or leaving Port.

2. For regulating the berths and stations to be occupied by vessels in any such Port.

Berths of vessels.

3. For striking the yards and top-masts, and for rigging in the jib and driver-booms, of vessels in any such Port, whenever it may be proper so to do.

Striking yards, &c.

4. For the removal or proper hanging or placing of anchors, spars, and other things, in or attached to vessels in any such Port.

Removal of anchors, &c.

5. For regulating vessels whilst taking in or discharging ballast or cargo, or any particular kind of cargo, in any such Port, River, or Channel, and the stations to be occupied by vessels whilst so engaged.

Taking in or discharging ballast.

6. For keeping free passages of such width as may be deemed necessary within any such Port, River, or Channel, and along or near to the piers, jetties, landing-places, wharfs, quays, docks, moorings, and other works in or adjoining to the same; and for marking out the spaces so to be kept free.

Keeping free passage.

7. For regulating the anchoring, fastening, mooring, and unmooring of vessels in any such Port, River, or Channel.

Regulating the anchoring.

8. For regulating the moving and warping of all vessels within any such Port, and the use of warps therein.

Moving and warping.

9. For regulating the use of the mooring buoys, chain and other moorings in any such Port, River, or Channel.

Use of mooring buoys.

10. For fixing from time to time, the rates to be paid for the use of such moorings, when belonging to the East India Company, or of any boat, hawser, or other thing belonging to the said Company.

Rates for use of mooring buoys.

11. For regulating cargo and other boats, and catamarans plying for hire in any such Port. Provided that nothing in this Act shall authorize the Local Government to fix the price to be charged for the use of any such boat or catamaran.

Cargo Boats, &c.

12. For regulating the use of fires and lights within any such Port.

Fires and lights.

13. For enforcing and regulating the use of signal lights by vessels at night in any such Port, River, or Channel.

Signal light.

VIII. Every declaration and order of a Local Government, which shall be made in pursuance of this Act, shall be published in the Official Gazette of that Government, or where there is no Official Gazette, in such other public manner as that Government may order: and a copy thereof shall be fixed up in some conspicuous place in the Office of the Conservator of every Port to which such order shall relate and in the Custom House, if any, of every such Port.

Publication of orders of a Local Government.

IX. If any person shall disobey any such order, he shall be liable to a penalty not exceeding One Hundred Rupees for every offence.

Penalty for disobedience to rules.

X. The Conservator of any Port subject to this Act may, in respect of any vessel within such Port, River, or Channel, give directions for carrying into effect any Port-rule in force within such Port.

Conservator empowered to give directions for certain specified purposes.

XI. If any person shall wilfully, and without lawful excuse, refuse or neglect to obey any lawful direction of such Conservator after notice thereof shall have been given to him, such person shall for every such offence, forfeit and pay a sum not exceeding One Hundred Rupees, and a further sum not exceeding One Hundred Rupees for every day in which he shall wilfully continue to disobey such direction; and in case of such refusal or neglect, it shall be lawful for the said Conservator to do, or to cause to be done all such acts as shall be reasonable or necessary for the purpose of carrying such direction into execution, and to hire and employ proper persons for that purpose; and all reasonable expenses, which shall be incurred in doing such acts, shall be paid and borne by the person or persons so offending. Any written notice of a direction given under this Act, which shall be left for the Master of any vessel with any person employed on board thereof or which shall be

Penalties for disobedience to orders of Conservator.

Expenses caused thereby to be paid by the person offending.

Service of written notice.

affixed on a conspicuous place on board of such vessel, shall, for the purposes of this Act, be deemed to have been given to the Master thereof.

Special Rule. Vessels in certain cases not to be moved without having a pilot, &c., or the permission of the Harbour Master.

XII. In every Port subject to this Act, to which the provisions of this Section shall be specially extended by any order of the Local Government, it shall be unlawful to move any vessel of the burthen of 200 tons or upwards, without having a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master on board; or to move a vessel of any burthen less than 200 tons and exceeding 100 tons, without having on board a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master, unless authority in writing so to do has been obtained from the Conservator or some Officer empowered by such Conservator to give such authority; and if any vessel shall, except in a case of urgent necessity, be removed contrary to the provisions of this Section, the Master of such vessel shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence, unless the Master of the vessel shall, upon application to the proper Officer, be unable to procure a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master to go on board the said vessel.

Exception.

Penalty

Master to permit warps to be made fast to his vessel.

XIII. The Master of any vessel in any Port subject to this Act shall, when required so to do by the Conservator, permit warps to be made fast to such vessel, for the purpose of warping any other vessel in the Port, and shall not allow any such warp to be let go, until required so to do; and any Master offending against the provisions of this Section shall be liable, for every such offence, to a penalty not exceeding Two Hundred Rupees.

Penalty.

Penalty for leaving out hawser, &c., after sun-set

XIV. If the Master of any vessel shall cause or suffer any warp or hawser, attached to his vessel, to be left out in any such Port after sun-set, in such a manner as to endanger the safety of any boat or other vessel navigating in the said Port, he shall be liable to a penalty for every such offence not exceeding Two Hundred Rupees.

Conservator may, in case of necessity, cut ropes, &c.

XV. The Conservator of any such Port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable, or hawser, which shall endanger the safety of any vessel in such Port, or at or near to the entrance thereof.

Penalties for causing obstruction or public nuisance.

XVI. If any person shall, without lawful excuse, cause any obstruction or impedient to the navigation of any Port, River, or Channels subject to this Act, or shall cause any public nuisance affecting or likely to affect such navigation, every such person shall be liable to a penalty not exceeding One Hundred Rupees, and also to pay all reasonable expenses which shall be incurred abating or removing such nuisance, obstruction, or impediment; and the Conservator, or any Magistrate having jurisdiction over the offence, may cause such nuisance, obstruction, or impediment to be abated and removed. [Extended by Act XVIII., 1858, s. 1, to ports scheduled in this Act.]

Any floating timber, &c., or any obstruction on shore within the limits of the Port to be removed at the expense of owner.

XVII. The Conservator may remove, or cause to be removed, any timber or raft, floating or being in any part of any such Port, which shall impede the free navigation of such Port; or any thing which shall obstruct or impede the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring, or other work, on any part of the shore or bank which has been declared to be within the limits of such Port, and is not private property; and the owner of any such timber or raft or other thing shall be liable to pay the reasonable expenses of such removal.

Expenses of removal may be recovered as a penalty.

XVIII. If the owner of any such timber or raft, or the person who has caused any such obstruction, impediment, or public nuisance as in either of the two last preceding Sections mentioned, shall neglect to pay the expense of the removal thereof, within one week after demand, or within fourteen days after such removal shall have been notified in the Official Gazette of the Presidency, or in such other manner as the Local Government by any general or special order may direct, such expenses may be recovered in the same manner as any penalty under this Act, and

Timber, &c., may be sold.

the Conservator may cause such timber, raft, or other thing, or the materials of any

nuisance or obstruction so removed, or so much thereof as may be necessary, to be sold by public auction, and may retain all the expenses of such removal and sale out of the proceeds of such sale; and shall pay the surplus of such proceeds, or deliver so much of the said timber or other materials as shall remain unsold, to the owner or other person entitled to receive the same; and, if no such person appear, shall cause the same to be kept and deposited in such manner as the Local Government shall direct; and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of such sale, by a further sale of so much of the said timber or other materials as may remain unsold.

Proceeds how to be dealt with.

XIX. If any obstruction or impediment to the navigation of any Port, River, or Channel, subject to this Act, shall have been lawfully made, or shall have become lawful by reason of the long continuance of such obstruction or impediment or otherwise, the Conservator shall report the same for the information of the Local Government, and shall, with the sanction of such Government, cause the same to be removed or altered, making to the person or persons who suffer damage by such removal or alteration reasonable compensation for the same. If any dispute arise concerning such compensation, the matter in dispute shall be determined according to the laws now or hereafter to be in force in the Presidency or place within which such Port, River, or Channel is situate relating to the determination of like disputes in the case of land required for public purposes.

Obstructions lawfully made how to be removed

Compensation how to be determined

XX. If any person shall wilfully and without lawful excuse lift, injure, loosen, or set adrift any buoy, beacon, or mooring, fixed or laid down by or by the authority of the Local Government in any Port, River, or Channel subject to this Act, he shall for every such offence be liable, in addition to the payment of the amount of damages done, to a penalty not exceeding Two Hundred Rupees, or to be imprisoned, with or without hard labour, for a period not exceeding six calendar months.

Penalty for injuring buoys, &c.

XXI. If any vessel shall hook or get foul of any of the

Notice to be given to Conservator, if vessel gets foul of Government moorings.

buoys or mooring laid down by or by the authority of the Local Government in any such Port, River, or Channel, the Master of such vessel shall not, nor shall any other person, except in the case of emergency, lift such buoy or mooring for the purpose of unhooking or getting clear from the same, without the assistance of the Conservator, and the Conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel; and the Master of such vessel shall, upon demand, pay such reasonable expense as may be incurred in clearing the same. If any person shall offend against the provisions of this Section he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence.

Penalty

XXII. If any person shall wilfully and without lawful excuse loosen or remove from its moorings any vessel within any such Port, River, or Channel, without leave or authority from the owner or Master of such Vessel, such person shall for every such offence, forfeit a sum not exceeding Two Hundred Rupees, or at the discretion of the Magistrate, be imprisoned, with or without hard labour, for a period not exceeding six calendar months.

Penalty for wilfully loosening a vessel from its moorings.

XXIII. If any vessel shall be wrecked, stranded, or sunk, in any such Port, River, or Channel, so as to impede or be likely to impede the navigation thereof, the Conservator may cause the same to be raised, removed, or destroyed; and, unless the expense of such work shall be repaid within one month after the completion thereof, may recover the same on behalf of the Local Government in the manner provided by Section XXXIX. of this Act.

Conservator may raise any wreck, &c., impeding navigation within the Port.

Expense, how recoverable.

XXIV. If any ballast or rubbish, or if any other thing likely to form a bank or shoal, or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such Port, River, or Channel, or into or upon any place or shore, from which the same shall be liable to be washed into any such Port, River or Channel, either by ordinary or high tides, or by storms or land floods, the person who shall so cast or throw the same, or cause the same to be so

Penalty for improperly discharging ballast, &c.

cast or thrown as aforesaid, and the Master of any vessel from which the same shall be cast or thrown, shall forfeit and pay a sum not exceeding Two Hundred Rupees over and above any expenses which may be incurred in removing the same; but this provision shall not extend to any case in which such ballast or other thing shall be cast or thrown into any such Port, River, or Channel, with the consent in writing of any Conservator, or within any limits within which such act may be authorized by Government. [By Act XVIII., 1858, s. 1, extended to ports scheduled in that Act.]

Proviso.

XXV. If any person shall grave, bream, or smoke any vessel in any such Port, contrary to the directions of the Conservator, or at any time or within any limits at or within which such act shall be prohibited by any order of the Local Government, every such person, and also the Master of such vessel, shall forfeit a sum not exceeding Five Hundred Rupees for every such offence.

Penalty for graving, &c., vessel within prohibited limits.

XXVI. If any person shall boil or heat any pitch, tar, resin, dammer, turpentine, oil, or other such combustible matter on board any vessel within any such Port, at any place where such act shall be prohibited by order of the Local Government, or contrary to the order or directions of the Conservator, every such person, and also the Master of any vessel on board which such offence shall be committed, shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence.

Penalty for boiling pitch, &c., on board a vessel within prohibited limits.

XXVII. If any person shall, by candle-light, or other artificial light, draw off spirits on board any vessel within any such Port, every such person, and also the Master of every such vessel, shall be liable for every such offence to a penalty not exceeding Two Hundred Rupees.

Penalty for drawing spirits by candle-light, &c.

XXVIII. In every such Port to which the provisions of this Section shall be specially extended by an order of the Local Government, every vessel exceeding the burthen of 200 tons shall be provided with a proper force-pump, hose, and appurtenances, for the purpose of extinguishing any fire that may occur on board; and the Master of every such vessel who, after having been

Special Rule.

Vessels above 200 tons to be provided with a force-pump, &c.

Penalty.

required by the Conservator to comply with such provision, shall, without lawful excuse, neglect or refuse so to do for the space of seven days after such requisition, shall be liable to a penalty not exceeding Five Hundred Rupees.

Vessels not to have powder, &c., exceeding 50 lbs. on board within certain limits to be fixed by Government.

XXIX. The Local Government may, by order, fix the limits within which vessels shall be prohibited from having on board, in any Port, River, or Channel subject to this Act, any quantity of gunpowder, rockets, or other combustible ammunition, exceeding altogether fifty pounds in weight, whether manifested for delivery or not; and in such case the Local Government shall appoint a proper place of deposit for such gunpowder, rockets, or combustible ammunition in excess of the quantity above allowed, and an Officer to receive the same.

Government to appoint place of deposit for powder.

Government to fix the time and manner of landing and shipping powder, &c.

XXX. The Local Government may, in such case, by order fix the times at or within which, and the manner in which such gunpowder, rockets, or combustible ammunition shall be landed and deposited by any vessel inward bound, and also the times at or within which, and the manner in which the same shall be taken on board any vessel from such place of deposit.

Master to make declaration.

XXXI. The Master of such vessel shall upon such gunpowder, rockets, or combustible ammunition being deposited, make and sign a declaration in writing that there is not then, to his knowledge or belief, on board such vessel, any gunpowder, rockets, or combustible ammunition exceeding the weight of fifty pounds; and in case such Master shall knowingly make any false declaration with respect to any of the matters aforesaid, he shall be liable to a penalty not exceeding Two Hundred Rupees.

Penalty.

Officer to give receipt and to account for powder deposited.

XXXII The Officer with whom such gunpowder or other combustible ammunition shall be deposited, shall give a receipt for the same to the Master or other person making the deposit, and he shall be accountable to such Master or other person for the re-delivery of the same.

If by stress of weather powder is not landed, notice must be given thereof.

XXXIII. If any vessel shall be prevented by stress of weather from landing or deposited such gunpowder, rockets, or other combustible ammunition, in excess of the quantity allowed as aforesaid, the Master or owner of such vessel, shall so soon as the weather may permit, land and deposit the same at the place so appointed as aforesaid, or shall forthwith give notice to the Conservator, or other Officer who shall be named for that purpose by any order of the Local Government, of his having such gunpowder, rockets, or other combustible ammunition on board, and shall obey his directions relating to the same.

Time, &c., for vessels outward bound to take in powder may be fixed by Government.

XXXIV. The Local Government may also, in respect to such Port, by order, fix the times and places at which, and the manner in which vessels outward bound, requiring to take in any gunpowder, rockets, or other combustible ammunition exceeding the quantity above mentioned, shall take in the same, whether such gunpowder, rockets, and other combustible ammunition, shall have been previously landed from such vessels or not.

Penalties for having prohibited powder, &c., on board.

XXXV. The Master of any vessel which shall have on board any gunpowder, rockets, or other combustible ammunition, contrary to the provisions of this Act, shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence; and all gunpowder, rockets or other combustible ammunition which shall be on board any vessel, contrary to the provisions of this Act, shall be forfeited to Government, and may be seized by the Conservator, or by any Collector of Customs, or by any Custom House Officer, or other Officer authorised in that behalf by any general or special order of the Local Government, within the limits of their respective jurisdictions. Nothing in this Act contained shall extend to any gunpowder, rockets, or other ammunition belonging to Government, or carried for the use of troops of Her Majesty or of the Honorable East India Company on board of any such vessel.

Exception.

Guns not to be discharged in Port.

XXXVI. If any person shall, without lawful excuse, discharge any gun, musket, or other fire-arm in any Port subject to this Act, or on or from the

landing-places, piers, wharfs, or quays thereof except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, such person shall, for every such offence, be liable to a penalty not exceeding Fifty Rupees.

Exception.

Penalty.

XXXVII. In every Port, River, or Channel, subject to this Act, to which the provisions of this Section shall be specially extended by an order of the Local Government, no person, unless duly authorized by the Conservator, shall creep or sweep for anchors, cables, or other stores, lost or supposed to be lost, in such Port, River, or Channel. Every person offending againt this provision shall be liable to a penalty not exceeding One Hundred Rupees.

Special Rule. Unauthorised person not to search for lost anchors or stores.

Penalty.

XXXVIII. If any anchors, wreck, stores, or other property shall be recovered by any Officer employed by the Local Government for that purpose from the bed of any Port, River, or Channel, subject to this Act, the Local Government shall be entitled to receive a reasonable sum for salvage, having regard to the place of recovery. A registry shall be kept of all anchors, wreck, or other property so recovered, in such manner, and at such place or places as the Local Government may direct; and such registry shall be open to public inspection at reasonable office hours, except on Sundays and such holidays as the Local Government may direct; and such registry shall contain a description of such property, and of the times and places where the same shall have been recovered.

Salvage payable for wreck, &c.

Register to be kept.

XXIX. If the property recovered under the last preceding Section, or by a Conservator acting under Section XXIII. of this Act, is unclaimed, or if the person claiming the same refuses to pay the amount due to the Local Government in respect thereof, such property, if of a perishable nature, may be sold forthwith; and if not of a perishable nature, may be sold at any period, not less than six months after the recovery thereof, by public Auction; and on the realization of the proceeds, the amount due to the Local Government for

Property recovered may in certain cases be sold.

Proceeds, how to be applied.

salvage or for the expenses incurred under Section XXIII. as aforesaid, shall be deducted therefrom, and credited to the Local Government, and the balance shall be paid to the person entitled to the property recovered, or if no such person shall appear and claim the same, shall be held in deposit for payment, without interest to any person who may thereafter establish his right to the same.

Special Rule. Removing stones, &c., or injuring shores of Port prohibited.

XL. In every Port, River, or Channel subject to this Act, to which the provisions of this Section shall be specially extended by an order of the Local Government, no person, without the permission of the Conservator, shall remove or carry away any rock, stones, shingle, gravel, or soil, or any artificial protection from any part of the Bank or shore of such Port, River, or Channel; and no person shall sink or bury in any part of such Bank or Shore, whether the same be public or private property, any mooring post, anchor, or any other thing which is likely to injure, or to be used so as to injure such Bank or Shore, except with the permission of the said Conservator, and with the aid or under the inspection of such person or persons (if any) as he may appoint to take part in or overlook the performance of such work. If any person shall offend against the provisions of this Section, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence, and to pay the expenses of repairing the injury (if any) done to such Bank or Shore.

Penalty.

Levy of Port-dues.

XLI. The dues and fees now usually collected at the several Ports within the said Territories may, during the period of one year from the time of the passing of this Act, be collected at such Ports respectively. No Port-dues or fees shall hereafter be levied in any such Port, except under the authority of this Act or of an Act hereafter to be passed for fixing the amount thereof; but nothing herein contained shall prevent the levy, as heretofore, of light-duties under Regulation VI. of 1831 of the Bombay Code, and Act XIII. of 1854, or of fines or duties payable under Act XXVII. of 1850. [Extended by Act XVI., 1856, for another year.]

Local Government may vary the Port-dues.

XLII. The Local Government may, from time to time, vary the rate at which Port-dues and fees shall be levied in any such Port, River, or Channel,

in such manner as, having regard to the receipts and charges on account of that port, it may deem expedient, by reducing or raising the dues and fees, or any of them; provided that the rates shall not in any case exceed the amount authorised to be taken by this or any subsequent Act.

Proviso.

XLIII. The Local Government may also, during the period of one year after the passing of this Act, remit altogether or reduce the rate of dues and fees now usually collected on any particular description of vessels.

Local Government may also remit or reduce Port-dues on any vessels during the period of one year after the passing of this Act.

XLIV. For every Port at which Port-dues shall be levied under this or any subsequent Act, a distinct account, to be called the Account of the Port Fund of the Port to which it relates, shall be kept by such Officer as the Local Government may appoint for that purpose. This account shall show in complete detail the receipts and charges of the Port; and an abstract statement of every such account shall be published annually, as soon after the 1st of May of each year as may be practicable, in which statement the balance at the close of the year at the credit or debit of the Port shall be shown. If, for any of the purposes of this Act, an advance of money shall have been or shall be made by Government on account of any Port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor General in Council may determine, shall be charged in the Port Fund Account thereof; all expenses, including the pay and allowances of all persons upon the establishment of the Port, the cost of buoys, beacons, lights, and all other works maintained chiefly for the benefit of vessels being in, or entering, or leaving the Port, or passing through the Rivers or Channels leading thereto, but excluding receipts and expenses on account of Pilotage, incurred for the sake of every such Port, shall be charged in the Port Fund Account of that Port. And all money, including salvage money, proceeds of waifs, and fines received under this Act, at or on Account of every such Port, shall be credited in the Port Fund Account of that Port. [See Note at end.]

Distinct accounts of Port-dues to be kept, and an abstract thereof to be published.

XLV. The Collector of Customs at every such Port, or such other Officer as the Local Government shall appoint, shall collect the Port-dues above-mentioned. The Officer to whom any such Port-dues shall be paid shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the Port or place at which the same shall be paid, and the name, tonnage, and other proper description of the vessel in respect of which such payment shall have been made.

Collection of Port-dues.

Voucher to be given.

XLVI. Within twenty-four hours after the arrival, within the limits of any such Port, of any vessel liable to the payment of Port-dues under this or any subsequent Act, the Master of such vessel shall report such arrival to the Conservator of such Port; and if any Master of a vessel shall, without lawful excuse, fail to make such report within the time aforesaid, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence.

Master to report the arrival of vessel to Harbour Master.

Penalty.

XLVII. If any vessel liable to the payment of Port-dues under this or any subsequent Act shall be in any such Port, without proper marks on the stem and stern posts thereof for denoting the draught of such vessel, the Conservator may, in any case in which it shall be necessary to ascertain the draught of such vessel, cause the same to be ascertained by means of the operation of hooking, and the Master of such vessels shall be liable to pay the expenses of such operation.

Conservator may in certain cases ascertain the draught, and charge the expense thereof to the master.

XLVIII. In order to ascertain the tonnage of any vessel liable to pay Port-dues under this or any subsequent Act, the following Rules shall be observed:—

Tonnage of vessel liable to Port dues how to be ascertained.

Clause 1.—If such vessel be a British registered vessel, or a vessel registered under Act X. of 1841, or Act XI. of 1850, or under the laws for the time being in force for the registration of vessels in India, the Conservator may require the owner or Master of such vessel, or any person having possession of the register of such vessel, to produce such register for inspection: and if any such Master or

If Registered.

other person shall, without lawful excuse, neglect or refuse to produce such register as aforesaid, he shall be liable to a penalty not exceeding One Hundred Rupees. If any such owner, Master, or other person as aforesaid shall neglect or refuse to produce such register, or otherwise to satisfy the Conservator as to what is the true tonnage of the vessel in respect of which such Port-dues shall be payable, it shall be lawful for the Conservator to cause such vessel to be measured, and the tonnage thereof to be ascertained, and in such case, the owner or Master of such vessel shall also be liable to pay the expenses of such measurement.

If not Registered.

Clause 2.—If such vessel be not a British registered vessel, or a vessel registered under Act X. of 1841, or Act XI. of 1850, or under the laws for the time being in force for the registration of vessels in India, and the owner or Master thereof shall fail to satisfy the Conservator as to what is the true tonnage of such vessel, according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Conservator shall cause such vessel to be measured, and the tonnage thereof, according to the mode aforesaid, to be ascertained; and in such case, the owner or Master of such vessel shall be liable to pay the expenses of such measurement.

On refusal to pay Port-dues, &c., the Collector may distrain and sell.

XLIX. If the Master of any vessel, in respect of which any Port-dues, fees, or charges shall be payable under this or any subsequent Act, shall refuse or neglect to pay the same, or any part thereof, on demand, the Collector of Customs, or other person authorised to collect such Port-dues or charges, may distrain or arrest, of his own authority, such vessel, and the tackle, apparel, and furniture belonging thereto, or any part thereof, and detain the same until the amount due shall be paid; and in case any part of the said Port-dues, or charges, or of the costs of the distress or arrestment, or of the keeping of the same, shall remain unpaid for the space of five days next after any such distress or arrestment so made, the Collector of Customs, or other such person as aforesaid, may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy the Port-dues, charges, and costs, including the costs

of sale, remaining unpaid, rendering the surplus (if any) to the Master of such vessel, upon demand. [Amended by Act XIX., 1860.]

No Port clearance to be granted until dues, &c., are paid.

L. The Officer of Government, whose duty it shall be to grant a Port clearance for any vessel, shall not grant such Port clearance, until the owner, agent, or Master of that vessel, or some other person, shall have paid all Port-dues, fees, and charges to which such vessel, or the owner or Master of such vessel in respect thereof shall be liable under this or any subsequent Act.

Conservator, &c., may go on board any vessel in discharge of his duty.

LI. The Conservator or any of his Assistants may, whenever he shall suspect that any offence has been or is about to be committed in any vessel contrary to this Act, or whenever it is necessary for him so to do in the discharge of any duty imposed upon him by this Act; and the Collector of Customs or other Officer appointed to collect any Port-dues or other charges payable in respect of any vessel under this or any subsequent Act, may, whenever it is necessary so to do, for the performance of any duty imposed upon such Collector or other Officer under this Act, either alone or with any other person or persons, go on board any vessel within the limits of any Port, River, or Channel subject to this Act. If the Master or other person in charge of such vessel shall, without lawful excuse, refuse to allow any such Conservator, or any of his Assistants, or any such Collector of Customs, or other Officer or person, to enter such vessel for the performance of any duty imposed upon him by this Act, he shall, for every such offence, be liable to a penalty not exceeding Two Hundred Rupees.

Penalty for preventing entry.

Penalty for obstructing Officer in discharge of his duty, &c.

LII. If any person shall wilfully obstruct or hinder any Officer in the execution of any duty imposed, or power conferred by this Act, or shall assault or ill-treat him in the discharge of such duty, or in the exercise of such power, such person shall, for every such offence, be subject to a penalty not exceeding Two Hundred Rupees.

LIII. All acts, orders, or directions by this Act authorized

Powers of Assistant Conservator, of Harbour Master, and of Assistant Harbour Master.

to be done or given by any Conservator, may, subject to his control, be done or given by any Harbour Master or any Assistant of such Conservator or Harbour Master. And any person hereby authorized to do any act may call to his aid such assistance as may be necessary.

Penalty for hoisting unlawful colours in Port.

LIV. If any vessel belonging to any of Her Majesty's subjects, or sailing under British colors, shall hoist, carry, or wear, within the limits of any Port, River, or Channel subject to this Act, any flag, jack, pendant, or colors, the use whereof on board such vessel shall have been prohibited by the Statute 17 and 18 Victoria, Chapter 104, or any other Statute now or hereafter to be in force, or by any Proclamation made or to be made in pursuance of any such Statute, or by any of Her Majesty's Regulations in force for the time being, the Master of such vessel shall, for every such offence, be liable to a penalty not exceeding Fifty Rupees; and such penalty shall be in addition to any other penalty which may be recoverable under the same Statute, or any future Statute to be made in that behalf; and it shall be lawful for any Officer of the Indian Navy, within the limits of such Port, River, or Channel, or for the Conservator of such Port, to enter on board any such vessel, and to seize and take away any flag, jack, pendant, or color so unlawfully hoisted, carried, or worn on board the same.

Offence how punishable, and penalties how to be recovered.

LV. All offences against this Act shall be punishable in a summary manner by a Magistrate. And in addition to the means prescribed by Act II. of 1839, the provisions of which are hereby extended to all penalties imposed under this Act, it shall be lawful for a Magistrate, by Warrant under his hand, to cause the amount of any such penalty imposed upon the owner or Master of any vessel for any offence committed on board of such vessel, or in the management thereof, or otherwise in relation thereto, whereof such owner or Master shall be convicted, to be levied by distress and sale of such vessel, and the tackle, apparel, and furniture thereof, or so much thereof as shall be necessary.

Costs of conviction.

LVI. In case of any conviction under this Act, the convicting Magistrate may order the offender to pay the costs of such conviction, in addition

to any penalty or expenses to which he may be liable. Such costs may be assessed by the Magistrate, and may be levied and recovered in the same manner as any penalty under this Act.

Damages, &c., payable under this Act, how to be ascertained and recovered.

LVII. In every case in which any person shall be liable, under the provisions of this Act, to pay any sum of money, damages, or expenses not exceeding One Thousand Rupees, the same may be recovered and levied in the same manner as any penalty under this Act, and, if necessary, the amount thereof may be fixed and assessed by the Magistrate before whom the case shall be tried.

Costs of Distress.

LVIII. In any case in which any penalty, damages or expenses shall be levied under this Act, by distress and sale, the costs of such distress and sale may be levied in addition to such penalty, damages, or expenses, and in the same manner.

Magistrate to determine the amount to be levied in case of dispute.

LIX. If any dispute shall arise concerning the amount leviable by any distress or arrestment by virtue of this Act, or the charges or costs payable under the last preceding Section, the person making such distress or using such arrestment may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied shall have been determined by a Magistrate, who, upon application made to him for that purpose, shall have power to determine such amount, and to award such costs to be paid by either of the parties to the other of them, as he shall think reasonable; and payment of such costs, if not paid on demand, shall be enforced in the same manner as any penalty under this Act.

Act not to extend to vessels of war, nor to affect any private right of property, nor any Customs law or regulation.

LX. Nothing in this Act shall extend to any vessel belonging to or in the service of Her Majesty, or of the East India Company, or to any vessel of war belonging to any Foreign Prince or State; nor to deprive any person of any right of property or other private right except as hereinbefore expressly provided; nor to affect any law or regulation relative to the Customs; nor any order or direction which shall have been lawfully made or given in pursuance of the provisions of any such law or regulation.

Indemnity to East India Company against default of Harbour Master, Pilot, &c.

LXI. The East India Company shall not be answerable for any act or default of any Master Attendant, Harbour Master, or other Conservator of any Port, River, or Channel subject to this Act; or of any Pilot; or of any Deputy, or Assistant of any of the Officers above-mentioned; or of any person acting under the authority or directions of any such Officer or Assistant; done within the limits of such Port, River, or Channel; nor for any damage or injury sustained by any vessel in consequence of any defect or in any of the moorings, hawsers, or other things belonging to the said Company, within the said limits, which may be used by such vessel. Provided that nothing in this Section shall protect the East India Company from an action in respect of any act done by or under the express order or sanction of Government.

Proviso.

Interpretation of word "Magistrate" in this Act.

LXII. The word "Magistrate" in this Act shall include a Justice of the Peace of the Presidency Towns of Calcutta, Madras, and Bombay, or for the Settlement of Prince of Wales' Island, Singapore, and Malacca, a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate, and also any Deputy or Assistant Magistrate to the extent of the powers of such Deputy or Assistant Magistrate.

Jurisdiction over offences beyond the local limits of jurisdiction.

LXIII. Whereas divers Ports and navigable Rivers may be situated partly within the jurisdiction of one Magistrate, and partly within that of another, by reason whereof doubts may arise upon questions of jurisdiction over offences which may be committed contrary to this Act, it is therefore enacted that, if any person shall be guilty of an offence against the provisions of this Act, in any Port, River, or Channel subject to this Act, such offence shall be punishable by any Magistrate having jurisdiction over any district or place adjoining such Port, River, or Channel, or adjoining either side of that part of the navigable River or Channel in which such offence shall be committed; and that such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if such offence had been committed locally within the limits of his jurisdiction, notwithstanding the offence may not have been com-

mitted locally within such limits; and in case any such Magistrate shall exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

Conviction to be quashed on merits only. Form of conviction, &c.

XLIV. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*, and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Construction of Act.

LXV. In the construction of this Act, unless there be something in any special provision thereof, or in the context, repugnant to such construction, the words "Local Government" shall be deemed to mean the person or persons, for the time being, immediately administering the Executive Government of that portion of the Territories under the Government of the East India Company in which the Port, River, or Channel in question is situated. The word "Vessel" shall include any thing made for the conveyance by water of human beings or of property. The word "Master," when used in relation to any vessel, shall mean and include any person having for the time being the charge, or command, or control of such vessel.

The different Acts for establishing Port-dues in different Ports are as follows:—

For the Port of Calcutta, by Act XXX., 1857.

For the Port of Bombay, by Act XXXI., 1857.

For the Ports of Moulmein, Rangoon, Kyoo Phyoo, Akyab, and Chittagong, by Act XXXV., 1857, and Act XIII., 1867.

For Cuttack, by Act II., 1858.

For Kurrachee, by Act VIII., 1858.

For Cambury Gulf Ports, by Act IX., 1858, which is repealed by Act IV., 1866, of the Bombay Council.

For Aden, by Act XV., 1858, which is amended by Act IV., 1863, of the Bombay Council, except s. 2, which is repealed by that Act.

For specified places in Madras, by Act XVIII., 1858.

For Bassein, by Act XXV., 1860.

For Calingapatam and Munsoorettah, by Act IV., 1861.

For Amherst, by Act VIII., 1861, since repealed by Act IX., 1864.

For Concan, by Act XV., 1861, which has been repealed by Act IV., 1867, of the Bombay Council.

Act I., 1862, of the Bengal Council—"An Act to enforce the hoisting of Signals," &c.—is to be taken and read as part of this Act.

ADMINISTRATION OF MORTGAGED ESTATES.

Act No. XXIII. of 1855.

[*Passed on the 13th August*, 1855.

Heir or devisee of lands under mortgage not entitled to have the mortgage discharged out of personal estate.

An Act to amend the Law relating to the administration of the Estates of deceased persons charged with money by way of Mortgage.

Preamble.

Whereas it is expedient that the Law, under which the real and personal assets of deceased persons subject to the English Law are administered, should be amended, it is enacted as follows:

Mortgage debts on property descending or devised, how to be discharged.

I. After this Act shall have come into operation, if any person shall die seized of, or entitled to, any estate or interest in any land or other hereditaments within the Territories in the possession of and under the Government of the East India Company, which shall, at the time of his death, be charged with the payment of any sum or sums of moneys by way of mortgage, and such person shall not by his will or deed or other document have signified any contrary or other intention, the heir or devisee to whom such land or hereditaments shall descend or be devised shall not be entitled to have the mortgage debt discharged or

satisfied out of the personal estate or any other real estate of such person, but the land or hereditaments so charged shall, as between the different parties claiming through or under the deceased person, be primarily liable to the payment of all mortgage-debts with which the same shall be charged, every part thereof, according to its value, bearing a proportionate part of the mortgage-debts charged on the whole thereof: Provided always, that nothing herein contained shall affect or diminish any right of the mortgagee of such lands or hereditaments to obtain full payment or satisfaction of his mortgage-debt, either out of the personal estate of the person so dying as aforesaid or otherwise. Provided also that nothing herein contained shall affect the rights of any person claiming under or by virtue of any will, deed, or document already made, or to be made, before this Act shall have come into operation.

Proviso as to the right of mortgagee to full satisfaction from the personal estate of the deceased.

Proviso as to claims made prior to this Act.

PENAL SERVITUDE.

Act No. XXIV. of 1855.

[*Passed on the 13th August*, 1855.

1. Abolishes sentence of transportation on Europeans and Americans.

2, 3. Substitutes for transportation, terms of penal servitude; (3) reserves discretion of Court to apply other legal punishments.

4. Legalizes commutation of penal servitude for death after sentence.

5. Empowers Government to exchange penal servitude for transportation in case of persons under sentence.

6. Empowers the G. G. in C. to appoint by formal order, place of penal servitude, &c.

7. Extends so far as applicable to penal servitude, Act relating to transportation.

8. Authorizes the removal of prisoners to other prisons.

9, 10. Authorizes G. G. in C. to give license to prisoners under servitude; and (10) such license to be an exemption from sentence.

11. Directs what proceedings may be taken for apprehension of convict in case of revocation of his license.

12. Convict violating the condition of his license to be liable to his original term of servitude over again.

13. Reserves the effect of 12 and 13 V., c. 43, &c.

14. Sentence on European or American to be conclusive of his origin.

15, 16. Construction of Act; (16) Act when to take effect.

An Act to substitute penal servitude for the punishment of Transportation in respect of European and American Convicts, and to amend the Law relating to the removal of such Convicts.

Preamble.

Whereas, by reason of the difficulty of providing a place to which Europeans or Americans can, with safety to their health, be sent for the purpose of undergoing sentences of transportation or of imprisonment for long terms, it has become expedient to substitute other punishment for that of Transportation, and to amend the Law relating to the removal of European and American Convicts for the purpose of imprisonment, it is enacted as follows:

No European or American to be sentenced to transportation.

I. After the commencement of this Act, no European or American shall be liable to be sentenced or ordered, by any Court within the territories in the possession and under the Government of the East India Company, to be transported.

Terms of Penal servitude instead of the present terms of transportation.

II. Any person who, but for the passing of this Act, would by any Law now in force, or which may hereafter be in force, in any part of the said territories, be liable to be sentenced or ordered, by any such Court, to be transported, shall, if a European, or American, be liable to be sentenced or ordered to be kept in penal servitude for such term as hereinafter mentioned.

The terms of penal servitude to be awarded by any sentence or order, instead of the term of transportation to which any such offender would, but for the passing of this Act, be liable, shall be as follows (that is to say):—

Instead of transportation for seven years, or for a term not exceeding seven years, penal servitude for the term of four years.

Instead of any term of transportation exceeding seven years and not exceeding ten years, penal servitude for any term not less than four and not exceeding six years.

Instead of any term of transportation exceeding ten years and not exceeding fifteen years, penal servitude for any term not less than six and not exceeding eight years.

Instead of any term of transportation exceeding fifteen years, penal servitude for any term not less than six and not exceeding ten years.

Instead of transportation for the term of life, penal servitude for the term of life. And in every case where, at the discretion of the Court, one of any two or more of the terms of transportation hereinbefore mentioned might have been awarded, the Court shall have the like discretion to award one of the two or more terms of penal servitude hereinbefore mentioned, in relation to such terms of transportation.

Discretion of Courts as to alternative punishments not to be affected.

III. Provided always that nothing herein contained shall interfere with or affect the authority or discretion of any Court in respect of any punishment which such Court may now award or pass on any offender other than transportation; but where such other punishment may be awarded at the discretion of the Court instead of transportation or in addition thereto, the same may be awarded instead of, or (as the case may be) in addition to, the punishment substituted for transportation by this Act.

Effect of pardon granted upon condition of penal servitude.

IV. If any offender sentenced by any Court within the said territories to the punishment of death shall have mercy extended to him, upon condition of his being kept in penal servitude for life, or for any term of years, all the provisions of this Act shall be applicable to such offender in the same manner as if he had been lawfully sentenced under this Act to the term of penal servitude specified in the condition.

The Executive Government may direct Europeans or Americans under sentence of transportation to be kept in penal servitude.

V. It shall be lawful for the Governor General of India in Council, or for the person or persons for the time being administering the Executive Government of any Presidency or place in which a European or American has been lawfully sentenced by any Court to be transported, to order such person to be kept in penal servitude for the shortest term of penal servitude substituted by this Act for a term of transportation of the same extent as that to which the offender was sentenced, or that portion thereof which he shall not have undergone, provided that no person shall be kept in penal servitude under the provisions of this Section after the expiration of the term of transportation to which he was sentenced.

Term of penal servitude in such case.

VI. Every person who, under this Act, shall be sentenced or

Person under sentence of penal servitude where to be sent and how to be dealt with.

ordered to be kept in penal servitude, may during the term of the sentence, or order, be confined in any such prison or place of confinement within any part of the said Territories as the Governor General of India in Council shall, by any General Order, from time to time direct; and may, during such time, be kept to hard labour; and such person may, until he can conveniently be removed to such prison or place of confinement, be imprisoned, with or without hard labour, and dealt with in all other respects in the same manner as persons sentenced by the convicting Court to imprisonment with hard labour may, for the time being, by law be dealt with. Provided that the time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

Intermediate imprisonment.

Proviso.

VII. All Acts and Regulations now in force within any part of the said Territories, with respect to convicts under order or sentence of transportation, or under order or sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act, be construed to extend and be applicable to persons under any order or sentence of penal servitude made or passed under this Act.

All Acts, &c., respecting convicts under sentence of transportation or imprisonment with hard labour made applicable for the purposes of this Act.

VIII. The person or persons for the time being administering the Executive Government of the Presidency or place in which any European or American convict is imprisoned, under a sentence or order of imprisonment for a term exceeding one year, whether with or without hard labour, may, with the consent of the Governor General of India in Council, order the removal of such prisoner from the prison or place in which he is confined, to any other public prison or place of confinement within any part of the said Territories; and such order shall be a sufficient authority for imprisoning the convict during the remainder of the term mentioned in the sentence, or any part of such term, in the Gaol to which the prisoner is removed. [Repealed by Act XII., 1867, s. 2.]

Removal of European or American convicts under sentence of imprisonment from one prison to another.

IX. It shall shall be lawful for the Governor General of India in Council to grant to any convict who may hereafter be sentenced or ordered to be kept in penal servitude, a license to be at large within the said Territories, or in such part thereof as in such license shall be expressed, during such portion of his term of servitude, and upon such conditions, in all respects as to the Governor General of India in Council shall seem fit; and it shall be lawful for the said Governor General in Council at any time to revoke or alter such license by a like order.

Governor General in Council may grant a license to be at large to any convict under sentence of penal servitude.

X. So long as such license shall continue in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

Holder of such license not to be imprisoned, &c.

XI. In case of the revocation of any such license as aforesaid, it shall be lawful for one of the Secretaries to the Government of India, by order in writing, to signify to any Justice of the Peace or Magistrate that such license has been revoked, and to require such Justice or Magistrate to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly; and such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of the said Territories, and shall have the same force and effect in any place within such Territories as if the same had been originally issued or subsequently endorsed by a Justice or Magistrate, or other lawful authority having jurisdiction in the place where the same shall be executed; and such convict, when apprehended under such warrant, shall be brought, as soon as he conveniently may be, before the Justice or Magistrate by whom the said warrant shall have been issued, or some other Justice or Magistrate of the same place, or before a Magistrate or Justice having jurisdiction in the Zillah or district in which such convict shall be apprehended, and such Justice or Magistrate shall thereupon make out his warrant under his hand and seal, for the re-commitment of such convict to the prison or place of confinement from which

If license revoked, the convict may be apprehended and committed to prison.

he was released by virtue of the said license, and such convict shall be re-committed accordingly, and shall thereupon be liable to be kept in penal servitude for such further period as, with the time during which he may have been imprisoned under the original sentence or order, and the time during which he may have been at large under an unrevoked license, shall be equal to the period mentioned in the original sentence or order.

Penalty for breach of condition of the license.

XII. If a license be granted under Section IX. of this Act upon any condition specified therein, and the convict to whom the license is granted violate any such condition, or shall go beyond the limits specified in the license, or, knowing of the revocation of such license, shall neglect forthwith to surrender himself or shall conceal himself, or endeavour to avoid being apprehended, he shall be liable upon conviction to be sentenced to penal servitude, for a term not exceeding the full term of penal servitude mentioned in the original sentence or order.

Act not to affect the provisions of certain English Statutes.

XIII. Nothing in this Act is intended to alter or affect the provisions of the 12 and 13 Victoria, Chapter 43, or any Act of Parliament passed in the United Kingdom of Great Britain and Ireland since the 28th of August, 1833, or which may hereafter be passed.

What to be deemed proof that a person is a European or an American.

XIV. Any sentence or order upon any person describing him as a European or American shall be deemed, for the purposes of this Act, to be conclusive of the fact that such person is a European or American within the meaning of this Act.

Construction of Act.

XV. The word "European," as used in this Act, shall be understood to include any person usually designated a European British subject. Words in the singular number or the masculine gender shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction.

Commencement of Act.

XVI. This Act shall commence from and after the First day of November, 1855.

OOTACAMUND.—JURISDICTION.

Act No. XXV. of 1855.

[*Passed on the 29th September*, 1855.

1. Empowers Madras Government to establish Criminal Court at Coimbatore of which Judge of Coimbatore to be Judge.
2. P. S. A. to give notice to Judge of commitments by him.
3. P. S. A. to have full powers of a Judge.

An Act to empower the Session Judge of Coimbatore to hold Session at Ootacamund on the Neilgherry Hills.

Preamble.

Whereas it is expedient to provide that persons charged with offences committed on the Neilgherry Hills, for which they are amenable to the jurisdiction of the Session Judge of Coimbatore, shall be tried in Ootacamund, it is enacted as follows:

Session Judge of Coimbatore empowered to hold Sessions at Ootacamund on the establishment of a subordinate Criminal Court, constituted according to Regulation VIII. of 1827 of the Madras Code.

I. When the Governor in Council of Fort St. George shall establish at Ootacamund on the Neilgherry Hills a subordinate Criminal Court constituted according to Regulation VIII. of 1827 of the Code of Fort St. George, it shall be lawful for the Session Judge of Coimbatore to hold Sessions at Ootacamund for the trial of persons committed by that Court for offences subject to his jurisdiction.

Principal Sudder Ameen to give notice of commitment to Session Judge.

II. When the Principal Sudder Ameen of such Court shall commit for trial before the Court of Session for the Zillah of Coimbatore, a prisoner charged with a crime or misdemeanour subject to the jurisdiction of that Court, he shall give immediate notice of the commitment to the Session Judge, and the Session Judge shall, within two months from the date of the commitment, proceed to hold a Court at Ootacamund for the trial of such prisoner; and if any other prisoners shall have been committed in the meantime, he shall continue the Session of the Court until all such prisoners shall have been tried.

Principal Sudder Ameen vested with certain Criminal powers.

III. It shall be lawful for the Principal Sudder Ameen of the said Court to exercise all the powers of a Criminal Court constituted according to Regulation II. of 1827; and also, by appoint-

ment of the Government of Fort St. George, all the powers of a Joint Magistrate.

Extended by Act XVI., 1858, to new Criminal Court of Ootacamund.

GOVERNMENT SAVINGS' BANKS.

ACT No. XXVI. OF 1855.

[*Passed on the* 19*th September*, 1855.

Recites expediency of facilitating payment of small deposits to representatives of deceased depositors.

1. Secretary to G. S. Bank may pay deposit to such person as he may think entitled, if no probate, &c., has been obtained, giving executor or creditor of deceased right to follow the money.

2, 3. Empowers Secretary to take security from person receiving, for due administration; and (3) to administer oath, &c., to such person.

4. Takes away Administrator General's power to give certificate as to deposits.

5. Act not to apply to deposits belonging to European officer or soldier, or sailor in marine service or Indian Navy.

An Act to facilitate the payment of small deposits in Government Savings' Banks to the representatives of deceased depositors.

Preamble.

Whereas it is expedient to facilitate the payment of small sums belonging to the estates of deceased depositors in the Savings' Banks established by Government within any part of the Territories in the possession and under the Government of the East India Company to the representatives of such depositors, it is enacted as follows:

Secretary of Government Savings' Bank, in certain cases, to pay, without probate, &c., money belonging to the estate of a deceased depositor.

I. If a depositor in any Government Savings' Bank shall die leaving therein a sum of money not exceeding Five Hundred Rupees, and probate of his will or letters of administration of his estate or effects, or a certificate granted under Act No. XX. of 1841, or under Section IV. of Act No. X. of 1851, shall not be produced to the Secretary of such Bank within the period of two months from the time of the death of the said depositor, it shall be lawful for the Secretary of such Bank to pay the same to any person or persons who

shall appear to him to be entitled to receive the same or to administer the effects of the deceased; and such payment shall be a full indemnity and discharge from all further liability in respect of the money so paid; but nothing herein contained shall preclude any executor or administrator or representative of the deceased from recovering from the person or persons receiving the same the amount remaining in his or their hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration; and any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the money so paid to such person or persons and remaining in his or their hands unadministered, in the same manner and to the same extent as if such person or persons had obtained letters of administration to the estate of the deceased.

Payment to be a discharge.

Saving of right of executor, &c.

And of creditor.

II. The Secretary of any such Bank may take such security as he shall think necessary from any person or persons to whom he shall pay any money under the preceding Section, for the due administration and distribution of the money so paid, and may assign the same to any person or persons interested in the due administration and distribution thereof, which person or persons may sue on the same in his or their own names.

Security for due administration.

III. For the purpose of ascertaining the right of the person or persons claiming to be entitled as aforesaid, it shall be lawful for the Secretary of any such Bank to administer an oath or affirmation; and every person who, having been sworn or having taken a solemn affirmation under this Act, shall wilfully give false testimony upon any examination authorized by this Act, shall be deemed guilty of perjury, and, if convicted, shall be liable to be punished accordingly.

Power to administer oath, &c.

Penalty for false testimony.

IV. From and after the passing of this Act, no Administrator General of a Presidency shall grant a certificate under Section XLIII. of Act No. VIII. of 1855, in respect of any sum of money deposited in a Government Savings' Bank. [Repealed by Act XXIV. 1867.]

Administrator General not to grant certificate in respect of money deposited.

V. Nothing in this Act contained shall apply to the payment of any money deposited in a Government Savings' Bank belonging to the estate of any European Officer or Soldier dying in Her Majesty's Service in India, or of any European Officer or Soldier dying in the Service of the East India Company, or to the estate and effects of any Officer, Seaman, or other person dying in the Marine Service of the said Company called the Indian Navy, or to the estate and effects of any person who, at the time of his death, was a deserter from any of the said Services.

Act not to apply to money belonging to the estates of European Soldiers, Sailors, &c.

BANKS OF BENGAL, MADRAS AND BOMBAY.

ACT NO. XXVII. OF 1855.

[*Passed on the* 19*th September*, 1855.

Empowers these Banks to transact business of a new kind to them, viz., to take charge of Government Securities, &c., receive interest, &c., invest proceeds, &c., sell, &c., re-invest, &c.

An Act to enable the Banks of Bengal, Madras, and Bombay, to transact certain business in respect of Government Securities and Shares in the said Banks.

Preamble.

Whereas it is expedient to authorise the several Banks of Bengal, Madras, and Bombay to transact the kinds of business hereinafter mentioned, it is enacted as follows:

Banks of Bengal, Madras, and Bombay empowered to transact certain business in respect of Government Securities and Shares in the said Banks.

I. In addition to the kinds of business in which the Bank of Bengal, the Bank of Madras, and the Bank of Bombay may now by law be respectively engaged, it shall be lawful for any of the said Banks to transact all or any of the following kinds of business, either with or without receiving commission or payment for the transaction thereof, that is to say:

First.—To take charge of any Government Securities or Shares in any of the said Banks.

Second.—To receive the interest or dividends on any such Securities or Shares.

Third.—To invest any money deposited in any of the said Banks in the purchase of any such Securities or Shares.

Fourth.—To sell or transfer any such Securities or Shares deposited with them, or to receive any principal money that may become payable thereon.

Fifth.—To re-invest the principal, interest, or dividends so received, or the proceeds arising from such sale in Government Securities or Shares in any of the said Banks, or to hold or pay such principal, interest, dividends, or proceeds, or, according to the instruction of their constituents and at their risk, to remit the same by public or private Bills, whether payable in India or not, and to do all acts necessary or proper for the purpose of making such remittances. Provided that, if any such remittance be made by a Note or Bill of any of the said three Banks, the same must be payable in India on demand.

Amended by Act XXI., 1854. Repealed by Act IV., 1864, of the Bengal Council, so far as relates to the Bank of Bengal; by Act V., 1862, of the Madras Council, from the time that Act comes into operation, so far as it relates to the Bank of Madras; and by Act X., 1863, of the Bombay Council, so far as it relates to the Bank of Bombay.

USURY LAWS.

Act No. XXVIII. of 1855.

[*Passed on the 19th September*, 1855.

1. Repeals s. 3 of 13 G. 3, c. 63; and all the usury laws in force with Regulations specified in schedules.

2. Court to decree agreed rate of interest, and if no agreement what it deems reasonable.

3. Court may order interest to be allowed on judgments, &c.

4. Agreement to allow the usufruct instead of interest to be valid.

5. On mortgage sales, twelve per cent. to be allowed, if interest agreed but amount not fixed.

6. Court to allow reasonable interest in taking accounts when rate only is not agreed.

7, 8. This Act not to have retrospective effect; and (8) to come into operation, 1st January, 1856.

An Act for the repeal of the Usury Laws.

Preamble.

Whereas it is expedient to repeal the laws now in force relating to Usury, it is enacted as follows:

Laws repealed.

I. Section XXX. of the Act of Parliament, passed in the thirteenth year of the reign of his late Majesty King George the Third, entituled "An Act for establishing certain Regulations for the better management of the affairs of the East India Company as well in India as in Europe," shall not apply in any part of the territories in the possession and under the Government of the said Company to any bond, contract or assurance whatsoever, which shall be made or entered into within the said territories after the passing of this Act; and the several parts of Regulations mentioned in the Schedule hereto annexed, and all laws in force in any part of the said territories relating to Usury, are hereby repealed.

What rate of interest shall be decreed by the Court in any suit.

II. In any suit in which interest is recoverable, the amount shall be adjudged or decreed by the Court at the rate (if any) agreed upon by the parties; and if no rate shall have been agreed upon, at such rate as the Court shall deem reasonable.

Rate of interest upon a judgment or decree.

III. Whenever a Court shall direct that a judgment or decree shall bear interest, or shall award interest upon a judgment, or decree, it may order the interest to be calculated at the rate allowed in the judgment or decree upon the principal sum adjudged, or at such other rate as the Court shall think fit.

Contract for the usufruct of property, in lieu of interest, to be binding.

IV. A mortgage or other contract for the loan of money, by which it is agreed that the use or usufruct of any property shall be allowed in lieu of interest, shall be binding upon the parties.

What amount of interest to be deposited in certain cases of conditional sales under the Bengal Regulations.

V. Whenever, under the Regulations of the Bengal Code, a deposit may be made of the principal sum and interest due upon any mortgage or conditional sale of land hereafter to be entered into, the amount of interest to be deposited shall be at the rate stipulated in the contract, or, if no rate has been stipulated and interest be payable under the terms of the contract, at the rate of twelve per centum per annum. Provided that in the latter case, the amount deposited shall be subject to the decision of the Court as to the rate at which interest shall be calculated.

Proviso.

Rate of interest on future adjustments of accounts.

VI. In any case in which an adjustment of accounts may become necessary between the lender and the borrower of money upon any mortgage, conditional sale of landed property, or other contract whatsoever, which may be entered into after the passing of this Act, interest shall be calculated at the rate stipulated therein; or, if no rate of interest shall have been stipulated and interest be payable under the terms of the contract, at such rate as the Court shall deem reasonable.

Transactions previous to this Act not to be affected.

VII. Nothing hereinbefore contained shall prejudice or affect the rights or remedies of any person, or diminish or alter the liabilities of any person, in respect of any act done, or contract entered into, previously to the passing of this Act.

Commencement of Act.

VIII. This Act shall commence and take effect from the 1st day of January, 1856.

SCHEDULE.

Sections IV., VI., VII., VIII., IX., X., and XI., Regulation XV., 1793, of the Bengal Code.

Sections III., V., VI., VII., VIII., IX., and X., Regulation XXXIV., 1803, of the same Code.

Clause 1, Section XXIII., Regulation VIII., 1805, of the same Code, so far as it extends the above-mentioned Sections of Regulation XXXIV., 1803, to the Zillahs therein referred to.

Clauses 3, 4, 5, and 6, Section IX., Regulation XIV., 1805, of the same Code, and so much of Section XI. of the same Regulation as may be deemed to have extended to the Zillah of Cuttack, any of the Clauses or Sections above-mentioned or any law relating to Usury.

Section II., Regulation XVII., 1806, of the same Code, so far as it extends to the Province of Benares, subject to modifications, the above-mentioned Sections of Regulation XV., 1793; and Sections IV. and VI. of the same Regulation.

Sections II., IV., V., and VI., Regulation XXXIV., 1802, of the Madras Code, and Section VIII. of the same Regulation, so far

as it may be deemed to limit the rate of interest to be allowed on mortgaged bonds.

Section XXII., Regulation IV., 1816, of the same Code.

Section XIV., Regulation V., 1816, of the same Code.

Section XV., Regulation VI., 1816, of the same Code.

Section XIII., Regulation VII., 1816, of the same Code.

So much of Section VII., Regulation II., 1825, of the same Code, as limits the rate of interest to be allowed by the Courts on bonds or other instruments which shall be entered into after the passing of this Act.

Sections X., XI., and XII., Regulation V., 1827, of the Bombay Code.

MADRAS.—CUSTOMS.

ACT No. XXIX OF 1855.

[*Passed on the 23rd October*, 1855.

1, 2. Empowers Board of Rev. to revise proceedings of all Customs officers; and (2) transfers to Board of Rev. certain powers of G. in C.; but (3) gives an appeal in certain cases to B. of Rev.

An Act for amending Act No. VI. of 1844.

Repealed by Act VI., 1863.

BOMBAY.—BUILDING ACT.

ACT No. XXX. OF 1855.

[*Passed on the 24th October*, 1855.

Repeals Act 28, 1839, s. 7.

An Act to repeal Section VII. of Act No. XXVIII. of 1839.

Preamble. Whereas it is expedient to repeal Section VII of the said Act, the provisions thereof being unnecessary:

Section VII., Act XXVIII., 1839, repealed. I. It is enacted that Section VII. of Act No. XXVIII. of 1839, be repealed.

EMIGRATION TO ST. LUCIA AND GRENADA.

ACT No. XXXI. OF 1855.

[*Passed on the* 14*th November*, 1855.

1, 2. Abrogates Act 4, 1839, as respects emigration to St. Lucia and Grenada; and (2) authorizes emigration from Calcutta, Madras, and Bombay thereto.

3, 4. Authorizes the appointment of emigration agents for those colonies; and (4) protector of emigrants to act under this Act.

5, 6. Ship not to take emigrants without license, &c., and doing so, liable to penalty; and (6) no emigrant to be taken on board without a certificate.

7. Ship with emigrants not to be cleared without certificate from emigration agent to effect specified.

8. Emigrant ships to leave ports only between the 31st August and 1st March.

9, 10. Master of emigrant ship before clearing to deliver list of ages, &c., of emigrants to the E. Agent; and (10) on default of duty under this Act to be liable to penalty.

11. Establishes penalty for taking emigrant on board, not in list.

12. Establishes penalty for any act in fraud of this Act.

13. Gives Customs officers, Pilots and Preventive officers the necessary powers for prevention of illegal emigration.

14. Customs officer to countersign emigrant's certificate; to muster emigrants before he leaves the ship; Pilot to do the same; and both to make a report on the emigrants.

15. Establishes penalty for forging documents under this Act.

16. Penalties under this Act may be enforced by J. P.

17. Act to take effect from notification in Gazette. Schedule.

An Act relating to the Emigration of Native Labourers to the British Colonies of Saint Lucia and Grenada.

Repealed by Act XIII., 1864.

BENGAL.—EMBANKMENTS.

ACT No. XXXII. OF 1855.

[*Passed on the* 30*th November*, 1855.

1. Repeals Bengal R. 6, 1806, and B. R. 11, 1829.

2. Defines what embankments are within the Act.

3, 4. Embankments to be under superintendent of embankments; to whom all powers are given to take charge, &c., change, &c., and enlarge, &c., the embankments.

5. Superintendent to give notice to Collector before he removes, changes or enlarges an embankment; who (cl. 2) shall make proclamation; (cl. 3) hear objections, and pass orders if Collector and Superintendent agree; and (cl. 4) orders appealable; (cl. 5) subject to appeal, orders to be final.

6. Proprietors bound to maintain embankments, to pay for their maintenance, when.

7. Entitles persons sustaining damage from alterations, to compensation from Collector, and by civil action, and amount in admitted claims to be settled by arbitration; and (cl. 2) provides for appointment of arbitrators; (cl. 3) when there are several claimants; and (cl. 4) for umpire, and (cl 5) for case of refusal of arbitrator, to act, &c.; and (cl 6) empowers Collector to enforce attendance of arbitrators; and (cl. 7) on default of arbitration may appoint new arbitrators; and (cl. 8) to conduct the arbitration; (cl. 9) and award, and proceedings to be deposited in his office; and (cl 10) may defer payment in certain cases; and (cl. 11) award to be set aside only on grounds of corruption, &c., and (cl. 12) gives costs to Government; and (cl. 13) fixes a measure of compensation; but (cl. 14) excepts from these provisions certain cases of compensation.

8. Provides for making sluices for landholders in embankments; (cl. 2) officer to report on the proposed work; but (cl. 3) applicant to pay the expense.

9. Sluices to be opened only by public officer, &c.

10. Authorizes the making of temporary water-courses, &c., through embankment.

11. Provides for specifications, &c., of works, expense of which belongs to Zemindars, &c., and (cl. 2) provides for accounts being kept.

12. Authorises Sup. to report to Collector houses, &c., the removal of which he deems necessary; and (cl. 2) Collector to give notice to interested parties; and (cl. 3, 4, and 5) jury to ascertain the value and make award.

13, 14. After award Collector to give notice to parties concerned; and (14) in their default houses, &c., may be removed by Collector.

15, 16, 17. Establishes penalty for obstructing the removal of houses, &c., and (16) for cutting, &c., embankments; and (17) for damaging embankments by other means.

18. Gives jurisdiction under the Act to Deputy and Assistant Magistrates.

19. Empowers Darogahs to inquire.

20. Orders of Magistrate, &c., appealable.

21. Interpretation clause.

An Act relating to embankments.

Preamble.

Whereas the Regulations now in force, for the maintenance of embankments in the Territories under the Government of the Lieutenant-Governor of Bengal, have been found ineffectual for the intended purposes thereof, and whereas it is desirable that provision should be

made for the better supervision and protection of the same, it is enacted as follows:

Regulations repealed.

I. Regulation VI. of 1806, and Regulation XI. of 1829, so far as they relate to the said Territories, are hereby repealed, except so far as they repeal the whole or part of any other Regulation, and except as to acts done, offences committed, and liabilities incurred before the passing of this Act.

What is a public embankment within this Act.

II. The word "embankment" in this Act means an embankment for the purpose of excluding or retaining water; and every embankment which is now kept up, or may hereafter be kept up, by the officers of Government, at the expense either of Government or of any private person, is a public embankment within the meaning hereof.

Who to have superintendence of public embankments.

III. The superintendence of the public embankments shall be entrusted, subject to the general orders of Government, to an officer who shall be called the Superintendent of Embankments.

Superintendent may take charge of any embankment which connects public embankments, &c.

IV. *Clause* 1.—The Superintendent of Embankments may cause any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or is necessary for the protection of the neighbouring country, to be taken charge of and kept up by the officers of Government.

And remove private embankment endangering a public embankment.

Clause 2.—He may also cause any private embankment, which endangers the stability of a public embankment, or obstructs the beneficial drainage of the country, to be removed.

And change the line of any public embankment or make a new embankment.

Clause 3.—He may also, when necessary, change the line of any public embankment, or make a new embankment.

And enlarge embankment, &c.

Clause 4.—He may also enlarge any public embankment, and do all acts necessary and proper for the maintenance thereof.

Before taking charge of private embankments, &c., Superintendent to give notice to Collector, who shall issue a proclamation.

V. *Clause* 1.—Before the Superintendent shall cause any of the works mentioned in the first three Clauses of the next preceding Section to be executed, he shall give notice in writing to the Collector of the district of his intention so to do. Upon

the receipt of such notice, the Collector shall cause a proclamation to be issued, incorporating the substance of the notice, and calling upon all persons interested, who may be desirous of showing cause against the execution of such works, to appear before him on a certain day to be named therein.

Publication of Proclamation.

Clause 2.—The proclamation shall be published by affixing the same in the Cutcherry of the Collector, the Mal Cutcherry (if any) of the estate on which the works are intended to be executed, and on some conspicuous spot in the neighbourhood thereof. The proclamation shall be published not less than fifteen days before the day appointed for hearing the parties interested.

Procedure on appearance of parties.

Clause 3.—The Collector shall hear the objections of any parties who may appear, and, after recording any evidence which they may adduce, shall communicate the objections that may be made, together with his opinion thereon, to the Superintendent of Embankments. If the Superintendent agree in opinion with the Collector, he shall pass an order accordingly. If he differ from the Collector, the case shall be referred to the Commissioner of Revenue, who shall pass such orders thereon as he may deem fit.

Appeal from orders of Superintendent and Commissioner of Revenue.

Clause 4.—Every such order passed by the Superintendent shall be appealable to the Commissioner of Revenue, and every order of the Commissioner shall be appealable to the Board of Revenue; but no appeal shall lie against any order passed under this Section, unless the same be presented within one month from the date of the order.

Orders not open to revision by the Civil Court.

Clause 5.—Subject to the right of appeal above-mentioned, and to the orders and control of Government, every order passed under this Section shall be final, and shall not be open to revision by any Civil Court, and shall be conclusive as to the necessity of any works ordered to be executed.

Maintenance of private embankments taken charge of by the Officers of Government.

VI. Whenever the Superintendent of Embankments shall hereafter cause an embankment, which any person is bound to keep up, to be taken charge of by the officers of Government, the expense of keeping up such embankment shall be charged to

Proviso.

such person. Provided that the amount so charged shall not exceed the reasonable expense of keeping up an embankment of the size and description which such person was bound to keep up, notwithstanding the embankment shall have been enlarged or improved by the officers of Government.

Compensation for damages sustained under this Act.

VII. *Clause* 1.—When the Superintendent of Embankments shall enlarge or change the line of any embankment, or make a new embankment, or cause an embankment to be removed, any person sustaining damages thereby, who, but for the passing of this Act, would be entitled to compensation, may prefer his claim for such compensation to the Collector of the District, at any time within twelve months after the execution of the work by which he is endamaged, and the Collector thereupon shall report the case for the orders of the superior Revenue authorities. If the claim be rejected, the claimant shall not be deprived, by reason of this Act, of any right which he might otherwise have had, to recover such compensation by a civil action; but such action shall not lie, unless the claimant shall have first preferred his claim to the Collector within the period above-mentioned, nor unless the suit be brought within a period of one year after notice to the claimant of its rejection. If the claim for compensation be admitted by the Revenue authorities, and the amount of compensation cannot be agreed upon, the same shall be settled by arbitration, in the manner hereinafter provided, and in no other manner, unless by the consent of the claimant and of the superior Revenue authorities.

Appointment of arbitrators.

Clause 2.—Unless the Collector and the claimant concur in the appointment of a single arbitrator, the Collector on the part of Government, and the claimant, shall each appoint an arbitrator. The appointment shall be in writing, and neither of the said parties shall have power to revoke the same without the consent of the other.

Arbitrator how to be chosen when there are several claimants for compensation.

Clause 3.—If there be several claimants for compensation in respect to the same injury, and they cannot agree in the appointment of an arbitrator on their behalf, in that case each of them may nominate one person; and the Collector shall choose by lot

out of the persons so nominated by the parties, or any of them, a person to act as arbitrator on behalf of the claimants. If only one person shall be so nominated, he shall be the arbitrator on behalf of the claimants.

Appointment of a third arbitrator.

Clause 4.—When more than a single arbitrator shall be appointed, the arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing a third person to act with them as arbitrator; and in case the arbitrators shall neglect to appoint such third arbitrator for a period of seven days after having been required so to do, the Collector may appoint such third arbitrator. If the arbitrators differ in opinion, or if one of them, having received due notice of a meeting of arbitrators, neglect to attend, any two arbitrators may make an award.

Arbitrator refusing or becoming incapable to act, &c.

Clause 5.—If any person on being appointed an arbitrator, shall refuse to act, or, after accepting the appointment, shall die or become incapable of acting, another person shall be appointed in his stead, in the same manner in which the first person was appointed.

Collector empowered to enforce attendance of arbitrators.

Clause 6.—After the arbitrators have accepted the appointment, the Collector shall be competent to exercise towards them such powers and authority, for securing their attendance and the due completion of their award, as the said Collector may legally exercise towards witnesses summoned before him, when acting judicially for the purposes of compelling them to attend and give evidence.

In default of award within a specified period, fresh arbitrators may be chosen.

Clause 7.—If no award be made within a period to be fixed for that purpose by the Collector, he may order that the matter shall be referred to another arbitrator or other arbitrators, to be chosen in the same manner, and subject to the same rules as the first.

Collector to furnish information to the arbitrators, and to enforce the attendance and examination of witnesses, &c.

Clause 8.—The Collector shall furnish to the arbitrators, or, so far as may be in his power, procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry. He shall, on the application of the arbitrators, summon any witnesses

whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings, maps, and plans, as they shall require. He shall also cause the proper affirmation to be made and signed by any witness whom the arbitrators may desire to examine upon affirmation, or he may empower the arbitrators to cause such affirmation to be made and signed before them. Any witness who shall refuse or omit to appear when duly summoned by the Collector, or who shall appear but shall refuse to make such affirmation, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the law by a witness refusing to appear or give evidence before the Collector when acting judicially. Any person giving intentionally and deliberately a false deposition, under an affirmation, in any case referred to arbitration, as above, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by law.

Award of the arbitrators.

Clause 9.—On the close of the enquiry, the arbitrators shall deliver a full and complete award, which shall specify the amount of compensation and the party or parties entitled thereto. The proceedings of the arbitration shall be deposited to the Collector's Office, and every party interested therein shall be entitled to a copy of the award on plain paper, under the seal and signature of the Collector, which copy shall be *primâ facie* evidence thereof.

Payment of compensation may in certain cases be deferred.

Clause 10.—If the right to the compensation awarded shall in any case be doubtful, or if there exist any ground which, in the judgment of the arbitrators, or of the Collector, render it improper to make immediate payment thereof to any of the claimants, the amount shall be invested in Government securities, and held in deposit until one of the claimants shall obtain an order of Court for the payment thereof.

Reversal or alteration of award.

Clause 11.—No award passed under this Section shall be liable to be reversed or altered, except by the decision of a Civil Court on the ground of corruption or misconduct of the arbitrators; and no suit to set aside such an award shall be entertained unless it be instituted

within three months from the date of the award. In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators, to be appointed in the same manner as the first.

Suits and proceedings against Government, except suits for reversal of awards, to be dismissed with costs.

Clause 12.—All suits and proceedings instituted against Government in any case in which compensation has been awarded, except suits instituted for the reversal of awards as aforesaid, shall be dismissed with costs. But nothing herein contained shall affect the right of any party to recover the amount awarded from any person who may have received the same without any just title thereto.

Proviso.

Estimated value of benefit to be set off against the compensation to be awarded.

Clause 13.—In fixing the amount of compensation to which any person may be entitled by reason of any of the acts mentioned in Clause 1 of this Section, the Court or arbitrators, as the case may be, shall take into consideration whether any party to the suit or arbitration has derived, or will derive, benefit from the act in respect of which the compensation is claimed, and shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed or awarded to that party.

The provisions of this Section not to apply to cases of compensation in respect to huts, trees, or crops.

Clause 14.—The provisions of this Section shall not be held applicable to cases in which the compensation to be made has reference only to huts, trees, or crops, which it may be necessary to remove or destroy in enlarging or changing the line of a public embankment. In all such cases the Officer in charge of the public embankments of the district shall report to the Collector, and the Collector shall thereupon proceed to value and make compensation for such huts, trees, and crops, in the manner prescribed in Section XII. of this Act.

Application by land-holder to have sluice made in a public embankment.

VIII. *Clause* 1.—If any land-holder, farmer, or cultivator be desirous of having a sluice made in any public embankment for the purpose of drainage or irrigation, he shall make an application in writing to the Collector of the district in which such embankment is situate. The application shall contain such particulars

of the land to be drained or irrigated as may enable the officers of Government to judge of the advantage which may be derived from the work, and shall declare; as regards an embankment maintained at the expense of the State, whether the applicant is willing to bear such part not exceeding half of the cost thereof as may be determined by Government, and as regards any other public embankment, whether the applicant is willing to defray the whole or such part of the cost incident to, and attendant on the proposed work, as may be determined as aforesaid.

Officer in immediate charge of embankments to report on the proposed work.

Clause 2.—The Collector shall transmit such application to the Officer in charge of the embankments of the district, who shall report his opinion thereon to the Superintendent of Embankments, and, if he be of opinion that compliance with the application is unobjectionable, shall annex to his report a plan of the proposed work and an estimate of the expense of its construction. The Superintendent of Embankments shall pass such order thereon as he shall think fit, which order shall be final.

Upon the applicant engaging to defray the cost Collector may issue certificate.

Clause 3.—If the construction of the proposed sluice receive the approval of the Superintendent of Embankments, the Collector shall require the applicant to enter into a written agreement to defray the whole or half of the expense, or such portion thereof as may be determined under the provisions of Clause I. of this Section, as the case may be; and upon such agreement being executed, shall issue a certificate to the Officer in charge of the public embankments of the district to construct the sluice.

Opening of sluices.

IX. Sluices constructed in any public embankment shall be opened only by, or with the permission of the Officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the Officer in charge of the public embankments of the district or from the Superintendent of Embankments.

Officer in immediate charge of embankments may authorise temporary water-course, &c., to be made.

X. Whenever any person is desirous that a temporary water-course should be made through, or that a temporary roadway should be made over, any public embankment, or that a temporary dam should be constructed in any embanked river, he shall apply to the nearest Officer of the Embankment

Department, who shall communicate the application to the Officer in charge of the public embankments of the district, and that Officer shall pass such orders thereon as he shall think fit, subject to the control of the Superintendent of Embankments. If the proposed work is to be executed by an Officer of Government, the applicant, before the commencement of the work, shall enter into a written agreement to defray the expenses of, and incident to, making such roadway, or of making and closing or removing such water-course or dam. In any case of emergency the Officer in immediate charge of an embankment, subject to such general instructions as he may receive from the Officer in charge of the embankments of the district, or from the Superintendent of Embankments, may cause a temporary water-course to be made through such embankment.

Specifications and estimates for maintaining or improving embankments kept up at the expense of Zemindars to be prepared annually, &c.

XI. *Clause* 1.—Specifications of the work and estimates of the expense which may be required for the maintenance or improvement of embankments kept up at the expense of Zemindars or others, shall be prepared as soon after the rains in each year as may be practicable. Copies of the specifications and estimates shall be transmitted to the office of the Collector, and may be examined by any person interested in the embankments. Notice of the receipt of the specifications and estimates shall be posted up in the Collector's office; and should any objection be preferred by any such person within a period of one month from the date of such notice, the Collector shall communicate the objection, with his own opinion thereupon, to the Superintendent of Embankments, who shall pass such orders as may appear to him reasonable and proper. Provided, however, that if the objection refer to the construction of sluices or other new works, any person dissatisfied with the order of the Superintendent, may appeal to the Commissioner, who, subject to the orders of the Board of Revenue and of Government, may disallow the construction of the work.

Accounts to be forwarded to the Collector who may recover the amount as arrears of Government revenue.

Clause 2.—The accounts of the actual expense incurred in maintaining or improving embankments kept up at the expense of Zemindars or others, and in constructing and repairing sluices and making temporary water-courses or

roadways through or over any public embankment, or executing any other work, the expense of which may be chargeable to individuals, shall be prepared as soon as possible after the completion of such works, and shall, as soon as such accounts shall have received the sanction of the Superintendent of Embankments, be forwarded to the office of the Collector, and may be there examined by any person interested. Notice of the receipt of the accounts shall be posted up in the Collector's office; and if, within one month from the date of such notice, any interested person shall object to the accounts, on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than the estimate, the Collector shall enquire into such objection, and, if the objection appear to be well founded, shall communicate the same, with his opinion thereon, to the Superintendent of Embankments. If the Superintendent concur with the Collector, he shall pass orders accordingly; if he differ, the case shall be reported to the Commissioner, whose decision shall be final. When the objection shall have been finally disposed of, or, if no objection be preferred, when a full month shall have elapsed from the date of notice, the Collector shall proceed to levy the amount from the parties liable to pay the same, by the process which is or may be in force for the recovery of arrears of Government Revenue.

Superintendent to report to Collector as to removal of buildings, &c.

XII. *Clause* 1.—Whenever the Superintendent of Embankments shall be of opinion that the removal of any houses, huts, or other buildings, situated between a public embankment and the river, is necessary, he shall make a report to that effect, accompanied by a detailed statement of the houses, huts, or other building to be removed, to the Collector of the district in whose jurisdiction the land on which such houses, huts, or other buildings stand, is situated.

Collector to give notice to claimants.

Clause 2.—When such report is received, the Collector shall cause a notice containing a general description of the houses, huts, or other buildings proposed to be removed, to be affixed in some conspicuous place upon the land, and to be published by proclamation in the nearest bazaar, calling on all persons claiming a right in such

houses, huts, or other buildings, to appear in person or by authorized agent at a place to be specified in the notice, on or before a given date, not being less than fifteen days from the date of such proclamation, in order to make known the amount and particulars of their claim to compensation to a Jury to be appointed in the following manner.

Selection of Jury.

Clause 3.—The Collector shall director a Deputy Collector, or a principal Officer of his establishment, to proceed to the spot, and there to select three respectable inhabitants of the neighbourhood; to form with himself a Jury for determining the value of the houses, huts, or buildings, and, if any dispute should arise, the rights of the claimants.

Proceedings of Jury.

Clause 4.—The Jury shall assess the value of each house, hut, or building separately. If in any case they differ, the value shall be assessed according to the opinion of the majority, and if they be equally divided the Deputy Collector or other Officer as aforesaid shall have a casting vote.

Award of Jury.

Clause 5.—Having completed their proceedings, the Jury shall make their award, which shall contain a schedule of the houses, huts, and buildings, the amount of value assessed on each, and the name of the person or persons entitled to receive the same. The award shall be final and conclusive, and not open to question in the Civil Court. Provided always, that any person who was not present at the enquiry, or whose claim may have been set aside by the Jury, may institute a suit for the value of the property claimed by him against the person to whom payment may have been made under the award.

After award, Collector to give notice of payment, and to remove buildings, &c., in thirty days.

XIII. The Collector, on receiving the award, shall cause a notice to be affixed in some conspicuous place upon the land, with a citation calling on the parties to appear before him or the Deputy Collector or other Officer aforesaid, in person or by authorized agent, at a certain time and place, and receive the amount so awarded, and warning them to remove their houses, huts, or other buildings, within thirty days from the date of such notice.

Collector may remove buildings, &c., at the cost of the owners, in case they neglect to do so themselves.

XIV. If, on the expiration of the above-stated period, the houses, huts, or other buildings shall have not been previously removed, the Collector shall cause the same to be removed or levelled, and if any expense be incurred in removing or levelling the same, the Collector may sell the materials at public auction in order to defray the charge, delivering any surplus that may remain to the owner.

Penalty for obstructing officer or person in discharge of duty.

XV. Whoever wilfully obstructs any duly authorised person in removing or levelling any embankment, house, hut, or other building, shall be liable to be imprisoned for any time not exceeding six months, with or without labor, at the discretion of the Magistrate, or to fine not exceeding two hundred Rupees, commutable, if not paid, to a period of imprisonment not exceeding six months, or to both.

Penalty for wilful damage to embankment by cutting, &c.

XVI. Whoever wilfully, and without due authority, cuts through, or attempts to cut through, any embankment, whether public or private, or destroys, or attempts to destroy, any such embankment, or opens any sluice or water-course in any such embankment, shall be liable, on conviction before a Magistrate, to be imprisoned for a term not exceeding one year, with or without labor, or to a fine not exceeding two hundred Rupees, commutable, if not paid, to a period of imprisonment not exceeding one year, or to both; or, if the Magistrate be of opinion that such punishment is insufficient for the offence, he may commit the offender to the Sessions Court, in which case he shall be liable, on conviction, to imprisonment for a period not exceeding seven years, with or without labor, or to fine, or to both.

Penalty for other wilful damage.

XVII. Whoever damages any public embankment by making any dam or other obstruction for the purpose of diverting or opposing the current of an embanked river, without the permission of the Officer in immediate charge of the embankments, or by refusing or neglecting to remove any such dam or obstruction at the proper season, or by cutting or otherwise altering the banks of any embanked river, or by removing the earth from such embankment, or by grazing or gathering any cattle or other animals on any such embank-

ment, or by driving stakes into, or cutting or rooting out grass growing on such embankment, or by any other wilful act destroys or diminishes the efficiency of such embankment, shall be liable, on conviction before a Magistrate, to simple imprisonment for a term not exceeding six months, or to a fine not exceeding two hundred Rupees, or to both.

Jurisdiction of Deputy or Assistant Magistrate under this Act.

XVIII. Any Deputy or Assistant Magistrate may take cognizance of offences under this Act, and may punish offenders to the extent of the power conferred upon him by the Regulations of the Bengal Code, and by the Acts of the Governor General of India in Council with respect to the punishment of misdemeanours.

Provision of Section XIII., Regulation XX., 1817, extended to this Act.

XIX. The provision of Section XIII., Regulation XX. of 1817, shall extend to any charge or information of the offences specified in Section XVI. of this Act; and Darogahs and other Police Officers shall enquire into such offences in the mode and subject to the provisions therein prescribed.

Right of appeal.

XX. All sentences and orders passed by a Magistrate, Deputy Magistrate, or Assistant, under this Act, shall be appealable, subject to the general provisions which regulate appeals.

Interpretation.

XXI. In the construction of this Act, words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular: words importing the masculine gender only shall include females; the word "Collector" shall mean any Collector, Deputy Collector, or other Revenue Officer in independent charge of any district or portion of a district.

SALTPETRE.

ACT No. XXXIII. OF 1855.

[*Passed on the 7th December*, 1855.

1, 2. Prohibits exportation of Saltpetre, except in British Vessels to London or Liverpool.

2, 3. Saltpetre seizable and to be confiscated if attempted to be illegally exported; and (3) persons violating Act to be liable to specified penalty.

4, 5. Prohibits Collectors from granting pass, &c., after 17th Nov., except for exportation under Act; but (5) Act not to apply to saltpetre shipped before that date.

6. Empowers Custom House officer to seize saltpetre without warrant.

7. Collector to report for confiscation to Board of Revenue.

8. Establishes fine and imprisonment for offenders against this Act.

An Act to prohibit the exportation of Saltpetre, except in British vessels bound to the Ports of London or Liverpool.

Repealed under the authority contained in the Act by order in Council.

EXECUTION OF JUDGMENTS.

Act No. XXXIV. of 1855.

[*Passed on the 15th December*, 1855.

Recites doubts on Act 33, 1852.

1, 2, 3. One Court called on to enforce the judgment shall not inquire into the validity of the judgment, but may take notice of want of jurisdiction appearing on face of judgment; and (2) may stay execution on reasonable cause shewn, until party can appeal, &c.; and (3) may impose conditions on staying execution.

4. Order of Court giving judgment to be binding on other Court.

5. Discharge of party under this Act not to prevent his being re-taken,

6. Act to be read as part of Act 33, 1852.

An Act to explain and amend Act No. XXXIII. of 1852.

Preamble.

Whereas doubts have arisen whether a Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII. of 1852, has power to inquire into the validity of the judgment; and it is expedient to remove such doubts, and to prevent any such Court from inquiring into the validity of a judgment in respect of which it has no appellate jurisdiction, and to provide for a stay of execution when such Court thinks it reasonable that the validity of the judgment should be inquired into, it is enacted as follows:

Court to which application to enforce a judgment of another Court is made, not to inquire into the validity of the judgment.

Proviso.

I. The Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII. of 1852, shall not have power to inquire into the validity of such judgment, unless it appear, upon the face of such judgment, that the Court by which the judgment was given had no jurisdiction to pronounce the same.

Such Court may, in certain cases, stay execution of judgment.

II. The Court to which the application is made may, upon reasonable cause being shown, stay the execution of the judgment for a reasonable time, to enable the judgment-debtor to apply to the Court by which the judgment was given, or to any Court having appellate jurisdiction in respect of the judgment or execution thereof, for an order to stay the execution, or for any other order relating to the judgment or the execution thereof, which such Court of first instance or Court of Appeal might have made if execution had been issued by the Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the judgment debtor shall have been seized under an execution, the Court which issued the execution may order restitution of the property, or the discharge of the person of the debtor, in the mean time.

Court may, in such cases, take security, &c., from judgment-debtor.

III. Before making an order to stay execution, or for the restitution of property, or the discharge of the judgment-debtor under this Act, the Court may require such security from, or impose such conditions upon, the judgment-debtor, as it may deem reasonable.

Order of Court pronouncing judgment to be binding upon Court enforcing the same.

IV. Any order of the Court in which the judgment was given, or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last-mentioned Court.

Defendant discharged under this Act liable to be re-taken in execution of the judgment.

V. No discharge of a defendent under the provisions of this Act shall prevent him from being re-taken in execution of the judgment.

Act to be taken as part of Act XXXIII. of 1852.

VI. This Act shall be read with, and taken as part of, Act No. XXXIII. of 1852.

Repealed by Act X., 1861.

N. W. PROVINCES.—COTTON.

ACT No. XXXV. OF 1855.

[*Passed on the* 14*th December*, 1855.

1, 2. Abolishes land Customs Import Duty on Cotton; and (2) drawback.

An Act to abolish the levy of Customs Duty on the

import of Cotton into the North-Western Provinces of the Presidency of Bengal.

Preamble.

Whereas it is expedient to remove all restrictions to the importation of Cotton into the North-Western Provinces in the Bengal Presidency, it is enacted as follows:

Portion of Act repealed.

I. So much of Section II., Act No. XIV. of 1843, as prescribes the levy of duties of Customs on the import of Cotton, uncleaned or cleaned, into the North-Western Provinces of the Presidency of Bengal, is hereby repealed.

Repeal of so much of Schedule of Act XIV., 1836, as allows a drawback.

II. So much of Schedule B., Act No. XIV., of 1836, as allows a drawback of the land-frontier duty paid upon Cotton-wool, is hereby repealed from the First day of July, 1856.

N. W. PROVINCES.—SALT.

Act No. XXXVI. of 1855.

[*Passed on the* 21*st December*, 1855.

1, 2, 3, 4. Collector, &c., to record information of Salt unlawfully stored; and (2) may proceed to search for it; and (3) burst open doors; (4) according to specified rules.

5. Salt under 5 seers not to be deemed contraband, unless manufactured where found.

6. Police officer to assist in search, under penalty.

7, 8. Exercise of powers under this Act without reasonable ground, to be punished; (8) and every search to be reported.

9. The purification or refinement of impure Salt to be deemed a manufacture.

An Act to empower Officers of Customs and Land Revenue to search Houses and other enclosed places for contraband Salt in the North-Western Provinces.

Preamble.

Whereas the existing laws do not empower Officers of Customs or Land Revenue in the North-Western Provinces of the Presidency of Bengal to search houses and other enclosed places for Salt manufactured or stored contrary to the provisions of Act XIV. of 1843, and it is expedient to give them power to do so, it is enacted as follows:

Particulars to be recorded by officer on receipt of information as to unlawful manufacture of Salt, &c.

I. Whenever any Collector, or other Officer of Customs or Land Revenue, not being under the grade of Assistant Patrol in the Customs department, or of Naib-Tehseeldar in the Revenue department, receives credible information that, within his jurisdiction, Salt is unlawfully manufactured in any dwelling-house, warehouse, or other enclosed place, or that Salt is unlawfully stored in any such house or place within the limits of Customs jurisdiction as defined by the Government of the North-Western Provinces of the Presidency of Bengal under the provision of Section III. of Act XIV. of 1843, he shall first record in writing the name, residence, and calling of the informant, the locality and description of the house or place where he believes the Salt to be manufactured or stored, and the name of the owner or occupant of such house or place, or the name of the person for or by whom such Salt is manufactured or stored, and, with respect to Salt stored, the supposed quantity and description of such Salt, with the grounds for believing the same to be contraband.

Officer thereupon may summon Police, and proceed to search a house for contraband Salt.

II. The said Officer, after recording the particulars aforesaid, may summon from the nearest Police Station a Police Officer, not being under the grade of a Jemadar, to attend him, and with such Police Officer and informant proceed to the said house or place, and in their presence search the same for Salt unlawfully manufactured or stored; provided that such search be not made between sunset and sunrise.

Proviso.

Officer may break open doors.

III. The said Officer, in company with such Police Officer, may break open the door or force an entry within the said house or place, if, upon requisition duly made, the door be not opened, or admission be refused, by the owner or occupant thereof.

IV. Repealed by Act XIX., 1862, s. 2, and a new provision substituted.

What to be deemed contraband Salt.

V. No Salt found stored in any house or place within the limits of Customs jurisdiction mentioned in Section I. of this Act, not being Salt unlawfully manufactured thereat, shall be deemed contraband, unless the quantity found shall exceed five seers in weight.

VI. Whoever, being a Police Officer summoned under Sec-

Penalty if Police Officer refuses or neglects to attend or aid in search or seizure.

tion II., fails to attend himself or to depute a subordinate Police Officer not being below the grade of a Jemadar, to attend, and any Police Officer who, after attending, refuses to aid in the search for, or seizure of, contraband Salt, or in any way wilfully frustrates the object of the search or seizure, shall, on conviction before a Magistrate, be liable, besides being dismissed from office, to a fine equal to the amount of fine that would have been leviable on the owners or holders of the Salt if it had been seized according to the information laid.

Penalty for vexatious search and for giving false information.

VII. Any Officer of Customs or Land Revenue, vested with power to carry into effect the provisions of this Act, who, under cover thereof, searches or causes to be searched any dwelling-house, warehouse or other enclosed place without reasonable grounds of suspicion that contraband Salt is there manufactured or stored, shall, upon conviction before the Magistrate within whose jurisdiction the offence may have been committed, be punished with fine not exceeding five hundred rupees, which fine, or any portion thereof, may be paid over to the party aggrieved, and, in default of payment of such fine, with imprisonment for a period not exceeding six months; and any person wilfully and maliciously giving false information, and so causing a search to be made in any dwelling-house, warehouse, or other enclosed place, to the injury or vexation of the owners, occupants, or any other person or persons whatsoever shall, on conviction, before a Magistrate, be liable to the same penalty and also to imprisonment for a period not exceeding two years, with or without hard labour.

Every case of search to be reported to superior Officers.

VIII. Every search under this Act, whether the result thereof be the seizure of contraband Salt or otherwise, shall be reported within forty-eight hours by the Officer of Customs or Land Revenue and by the Officer of Police present at the search, to their respective official superiors.

What to be deemed a manufacture of Salt.

IX. The purification or refinement of impure Salt, obtained in the manufacture of Saltpetre, so as to produce alimentary Salt, shall be deemed a manufacture of Salt within the meaning of this Act and of Act XIV., 1843.

Extended to the N. W. Provinces by Act XXXI., 1861, s. 8, and to Oudh by Act XIX., 1862.

BENGAL.—THE SONTHAL DISTRICTS.

ACT No. XXXVII. OF 1855.

[*Passed on the 22nd December*, 1855.

1. Certain specified Districts taken out of the operation of the general law; and (cl. 2) to be placed under a special officer.

2, 3, 4. Administration of Civil and Criminal Justice and Collection of Revenue vested in that officer; (3) who shall be bound by the spirit and principle of the Criminal and Civil Laws but not by futwa, and may hold Courts where ordered; and (4) his decisions to be final, except in sentence of death, and in cases in which appeal is specially permitted by Lt.-Governor.

4. Cl. 2.—Prescribes what on appeal the Sudder Court shall do.

5. Saves Europeans from operation of Act.

6. Act to come into operation, when.

Schedule. Names of districts and places under Act.

An Act to remove from the operation of the general Laws and Regulations certain Districts inhabited by Sonthals and others, and to place the same under the Superintendence of an Officer to be specially appointed for that purpose.

Preamble.

Whereas the general Regulations and Acts of Government now in force in the Presidency of Bengal are not adapted to the uncivilized race of people called Sonthals, and it is therefore expedient to remove from the operation of such Laws the District called the Damun-i-Koh, and other Districts which are inhabited principally by that tribe, it is enacted as follows:

Certain Districts removed from the operation of the general Regulations of the Bengal Code.

I. *Clause* 1.—The districts described in the Schedule to this Act are hereby removed from the operation of the general Regulations of the Bengal Code and of the Laws passed by the Governor General of India in Council, except so far as is hereinafter provided; and no Law which shall hereafter be passed by the Governor General of India in Council shall be deemed to extend to any part of the said Districts, unless the same shall be specially named therein.

Proviso.

Provided that nothing herein contained shall extend to or affect any case now pending in any Court, nor remove any part of the said Districts from the operation of Regulation X. of 1804, of the Bengal Code; nor shall this Act affect any Revenue Settlement, nor any law relating to the recovery of permanently-settled

Land Revenue due under the same, nor any Law relating to the sale of lands for arrears of Revenue, or relating to Putnee Talooks or to the sale thereof for arrears of rent, nor any Law relating to Mutations or Butwara, or to any other matter to which the Lieutenant-Governor of Bengal shall at any time notify in the "Calcutta Gazette" that the General Laws and Regulations shall extend.

Districts to be under the superintendence of Officers subject to the control of the Lieutenant-Governor of Bengal.

Clause 2. The said districts shall be placed under the superintendence and jurisdiction of an Officer or Officers to be appointed in that behalf by the Lieutenant-Governor of Bengal, and such Officer or Officers shall be subject to the directions and control of the said Lieutenant-Governor.

Administration of justice and collection of Revenue vested in such Officers.

II. The administration of Civil and Criminal justice, and the collection of the Revenue, not being permanently-settled Land Revenue within the said Districts, are hereby vested in the Officer or Officers to be so appointed. Provided that all Civil suits, in which the matter in dispute shall exceed the value of one Thousand Rupees shall be tried and determined according to the general laws and Regulations, in the same manner as if this Act had not been passed. Provided also, that all permanently-settled Land Revenue shall be collected and paid at the same places and in the same manner as if this Act had not been passed.

Proviso as to suits exceeding the value of Rs. 1,000.

Collection of permanently-settled Land Revenue.

Mode of administering Civil and Criminal justice.

III. In the administration of Civil and Criminal justice, the Officer or Officers appointed under this Act, shall be guided by the spirit and principle of the Civil and Criminal Laws administered in the Courts of the East India Company in the Presidency of Bengal, but shall not be bound to take the futwa of a Law Officer; and he or they may hold his or their Courts either within the said District or at any place or places that may be appointed for that purpose by the said Lieutenant-Governor; and any person liable to be imprisoned in any civil or criminal gaol, may be imprisoned in any civil or criminal gaol, as the case may be, which the said Lieutenant-Governor may order, whether the same be in or out of the said District.

IV. *Clause* 1.—All decisions in Civil suits and sentences in Criminal cases, which shall be passed by such Officer or Officers, to the extent of the powers which may be from time to time conferred upon them respectively by the Lieutenant-Governor of Bengal, according to the provisions of this Act, shall be final. Provided that no sentence of death, passed by any such Officer, shall be carried into effect until it shall have been confirmed by the Sudder Court, and provided also that it shall be lawful for the said Lieutenant-Governor to direct that an appeal shall lie in any class of Civil suits or Criminal trials from any Officer appointed under this Act, to any other Officer appointed under the same, and also to direct the Officer or Officers appointed under this Act, to refer to the Sudder Court for sentence any class of Criminal trials.

Decisions to be final.

Proviso.

Clause 2.—Upon the receipt of any Criminal trial, referred to the Sudder Court under Clause 1 of this Section, the said Court shall, without submitting the proceedings for the futwa of their Law Officer, proceed to pass final judgment, or such other order as may seem to the Court requisite and proper, in the same manner as if the trial had been referred in ordinary course by a Sessions Judge; and in any case in which sentence of death passed by an Officer under this Act shall be transmitted to the Sudder Court for confirmation, the said Court may either confirm the same, or pass such other judgment warranted by Law, as may appear to the said Court to be just and proper.

Procedures on references to the Sudder Court.

V. Nothing in this act shall alter the laws now in force with respect to the amenability of European British subjects to any Court or Officer for any act of a criminal nature committed within the District.

Saving of Laws relating to European British subjects.

VI. This Act shall take effect from such day as shall be fixed for that purpose by the said Lieutenant-Governor by notice to be published in the "Calcutta Gazette."

Act when to take effect.

SCHEDULE.—[Repealed by Act X., 1857, and a new Schedule substituted for it, which is to be applied as if the substituted Schedule had been the Schedule of this Act.]

BENGAL.—THE SONTHALS AND THE DISTURBED DISTRICTS.

Act No. XXXVIII. of 1855.

[*Passed on the 22nd December*, 1855.

1. Cl. 1, 2. Empowers the G. of B. to appoint Commissioner for the trial of certain offences; (cl. 2) who may hold Courts within certain Districts.

2. Authorizes Lt.-Governor to give certain powers to Commissioner.

3. Sentence of death not to be carried out without consent of Lt. Governor.

4. Magistrates, &c., may commit for trial before Commissioner.

5, 6. Provides for punishment of rebellion committed after promulgation of this Act; and (6) of rebellion before Act.

7. Sentences, where to be carried out.

8. Act not to apply to British born subjects or their children.

9, 10. Lt.-G. may by proclamation prohibit carrying arms; on (10) pain of penalty.

11. Empowers Magistrates to search houses.

12. Executive Government may exempt certain persons from Act.

13. Interpretation.

14. Empowers Lt.-G. to commute sentence of death.

15. Act to remain in force till 31st December, 1858.

An Act to provide for the trial and punishment of rebellion and other offences committed within certain Districts in which Martial Law has lately been proclaimed.

Of temporary operation, and expired.

OBSCENE BOOKS AND PICTURES.

Act No. I. of 1856.

[*Received the assent of the G. G. on the 26th Jan.*, 1856.

Recites expediency of preventing the exposure of obscene books.

1. Imposes fine or imprisonment for sale or exposure of obscene books, &c., or singing, &c., obscene songs, &c.

2. Authorizes to arrest by any person of offender actually offending under the above section.

3, 4. Authorizes Magistrate to receive information and issue summons, &c.; and (4) requires him to destroy obscene books, &c., within his power.

5. Prohibits importation of obscene books, &c., and authorizes Custom's Officer to seize and destroy them.

6. Orders or sentences under this Act appealable.

7. Act not to apply to representations painted, &c., on temples or idol cars.

8. Convictions not to be quashed for want of form; Certiorari to lie; Conviction may be aided by deposition.

9. Interpretation Clause.

An Act to prevent the sale or exposure of Obscene Books and Pictures.

Repealed by Act XVII., 1862.

COMPLAINTS TO MAGISTRATES.

Act No. II. of 1856.

[*Received the assent of the G. G. on the 9th Feb.*, 1856.

1. Repeals so much of Regulations in Bengal and Madras Codes as require complaint in writing or attendance of complainant, where offence affects the public.

2. Information on oath or affirmation, or personal knowledge of Magistrate equivalent to complaint in writing.

3. Without prejudice to appeal.

An Act to enable Magistrates and certain other Officers to take cognizance of certain offences without requiring a written complaint.

Repealed by Act XVII., 1862.

CALCUTTA AND MADRAS ABKAREE COMMISSIONER AND OFFICERS.

Act No. III. of 1856.

[*Received the assent of the G. G. on the 9th Feb.*, 1856.

1. Gives to Commissioner of Revenue the powers of Abkaree Commissioner under Act II., 1849.

2. Abkaree officers making seizures may also arrest Offender.

An Act to amend Act No. XI. of 1849, and Act No. XIX. of 1852.

Preamble.

Whereas the office of Commissioner for the superintendence of the Abkaree Revenue, heretofore existing under Act No XXV. of 1840, has been abolished, and it is expedient to make provision for the exercise of the powers and duties vested by Act No. XI. of 1849, in the Commissioner of Abkaree; and whereas it is also expedient to

declare the powers of Abkaree Officers to make arrests in certain cases, it is enacted as follows:

Powers and duties of Commissioner of Abkaree vested in Commissioner of Revenue.

I. The Commissioner of Revenue of the Division within which the Town of Calcutta is or may be situated, shall possess the powers and perform the duties vested by Act No. XI. of 1849, in the Commissioner of Abkaree.

Abkaree Officers empowered to make arrests in certain cases.

II. Whenever an Abkaree Officer shall, under Section XIX., Act XI. of 1849, or Section XIX., Act XIX. of 1852, seize any spirituous or fermented liquors or intoxicating drugs, as liable to confiscation, he may also arrest the person in whose possession such liquors or drugs may be found; and all the provisions of the aforesaid Acts relative to arrests shall be applicable to arrests made under this Act.

BENGAL.—CATTLE KILLING.

Act No. IV. of 1856.

[*Received the assent of the G. G. on the 9th Feb.*, 1856.

1. Cattle Killing a heinous offence under R. 20 of 1817, sec. 25; offender liable to imprisonment for 3 years if tried by Magistrate, for 9 years if committed to Sessions.

2. Act XVI. of 1850, applicable to convicts under this Act.

An Act to prevent the malicious or wanton destruction of Cattle.

Repealed by Act XVII. 1862.

MALABAR.—THE MOPLAS.

Act No. V. of 1856.

[*Received the assent of the G. G. on the 22nd Feb.*, 1856.

Recites belief of Moplas that Act XXIII. of 1854, had operation prior to September, 1855, and expediency of extending the Act.

1. Act XXIII. of 1854, in force from 1st March, 1855.

2. That Act to extend to every Mopla who murders or attempts to murder, or takes part in or promotes any murderous outrage, or resists apprehension.

3. This Act and Act XXIII. of 1854, to be read as one Act.

An Act to give effect to Act XXIII. of 1854, from the time of its promulgation in the District of Malabar, and to extend the application thereof in future.

Repealed by Act XX., 1859.

PATENT LAW.

ACT No. VI. OF 1856.

[*Received the assent of the G. G. on the 28th Feb.*, 1856.

Recites expediency of privileges to inventors of new manufactures.

1. Inventor to petition G. G. in Council for leave to file specification; form of petition.

2. G. G. in Council may give leave.

3. And may, before doing so, refer to any person for enquiry, such person to be entitled to fee.

4. Inventor, his executors, &c., and those authorized by him, upon his filing specification within 6 months after leave given, entitled exclusively to make, sell and use invention in India for 14 years; and for such further term as (on petition presented in manner directed) G. G. in Council may grant.

5. Orders of G. G. in Council upon petitions may contain conditions and restrictions.

6. Requisites of specification.

7. Petition and specification how to be filed, to be accompanied by declaration in form specified.

8. Wilful and corrupt false declaration, perjury.

9. Fees to be paid before filing specification.

10. Five copies to be given at time of filing, one of which open for public inspection on payment of one rupee.

11. Petitions and specifications to be recorded in book.

12. Which book open to public on payment of one rupee, and certified copies of entries to be furnished if paid for.

13. Such certified copies *primâ facie* proof.

14. Exclusive privilege void, if invention not new, or if petitioner not inventor, or if specification not precise as to the invention and manner of execution.

15. Power to G. G. in Council to put an end to privileges granted if considered mischievous to State or prejudicial to public. If proved to H. M.'s Court that condition under which specification filed, or further term granted, broken, G. G. in Council may declare privileges at an end.

16. Importer to be deemed an inventor, but privilege to cease unless the invention put in practice within 2 years from date of petition and continue to be in use or available.

17. Foreigner may petition.

18. Invention, a new one, if not publicly used in India or made public in print. Knowledge fraudulently obtained, or published, not to prevent inven-

tion being new under this Act, if not acquiesced in by inventor, and leave to file specification be applied for within 6 months of being so used or known. Use by inventor or by his authority, not a public use.

19. Patentee in United Kingdom may petition within 6 months of date of British patent, if invention not known in India at date of letters patent, although known or used afterwards; and on grant of privilege by G. G. in Council all exclusive privilege, previously obtained by importer, to cease, provided petition recite particulars of British patent.

20. No person who has used an invention prior to 7th July, 1855, can be excluded.

21. Action for infringment, and where to be brought.

22. How such action may and may not be defended.

23. Rule *nisi* may be obtained in H. M.'s Court to declare privilege not in conformity with this Act, upon six objections specified.

24. Like application as to part of an invention, for three objections specified.

25. Advocate General entitled to rule *nisi* to try any fact on which revocation of exclusive privilege may depend by an issue. Subsequent proceedings.

26. Notice of proceeding under 3 last sections to be served on all persons apparently interested and on no other.

27. Issue upon any question of fact arising under sections XXIII., XXIV., XXV., may be directed by the Court to any Court of H. M., or any principal Civil Court of E. I. Co.; such issue to be tried in a summary manner.

28. Court at hearing of application under secs. 23 and 24, may give judgment against the privilege, which shall cease.

29. Certain defects in specification not to be fatal to the privilege; and may be amended by the Court if so doing no injury to the public.

30. Misdescription not to vitiate, unless fraudulent.

31. Upon judgment against a privilege, Secretary to make entry accordingly in book of registry.

32. Upon proof before H. M.'s Court, or any principal Civil Court of E. I. Co., within 2 years from date of petition by an inventor, that the latter has fraudulently obtained his privilege, the Court may compel him to assign his privilege and to account for profits.

33. Particulars of infringement and defence, also of objections, in action or application under this Act, must be delivered.

34. Book in Home Secretary's office (open to inspection without fee) to contain name of person to receive service of rule or proceeding, also of names of proprietors and partners in the privilege, service in conformity therewith sufficient.

35. Act not to interfere with Prerogative.

36. Stamp.

37. Interpretation clause.

An Act for granting exclusive privileges to Inventors.

Repealed by Act IX., 1857, and New Patent Law substituted for it by Act XV., 1859.

BOMBAY.—WATER SUPPLY.

ACT No. VII. OF 1856.

[*Received the assent of the G. G. on the* 11*th March*, 1856.]

Recites necessity of preventing waste, and providing a due supply of drinking water.

1. Power to G. in Council to direct Police to take possession of any tanks or wells in town or islands for the purposes therein mentioned, and to retain possession until 1st August, 1856.

2. Power to G. in Council to direct removal of cattle to South of a line drawn from Love Grove to Chinchpooglee, and to enforce the same through the Police by seizure and impounding.

3. Whoever impedes the Police in their duty under this Act or prevents the public taking water as allowed, or injures the water or takes it in excess, or in disobedience of Government order, punishable summarily with fine and imprisonment.

4. Every one injured by interference with tank or well for use of public under this Act entitled to compensation from municipal fund. Proceeding for award and recovery of the compensation.

An Act to enable the Bombay Government to provide for a due supply of Water for public use in the Islands of Bombay and Colaba.

Preamble.

Whereas it is necessary to prevent the waste of drinking water in the Islands of Bombay and Colaba, and to empower the Government to prevent the consumption of such water otherwise than as drinking water, and to make an economical disposition of the drinking water, in wells and tanks, in order to provide for a due supply of such water for the public during the present year, it is enacted as follows:

Governor in Council may authorize the Police to take possession of private tanks, &c.

I. It shall be lawful for the Governor of Bombay in Council, in case he shall deem the same to be absolutely necessary for the public safety, at any time before the 1st of August next, to direct the Police to take possession of all or any of the tanks and wells, whether private property or not, throughout the said Town and Islands, containing drinking water, not being tanks or wells in or under an occupied house, and to deepen and improve the same, and to retain possession thereof until the said 1st of August, and during such period to prevent the consumption of the water thereof otherwise than as

drinking water, and to superintend the distribution of the water thereof under the orders of Goverment, or of Officers appointed by Government; and it shall be lawful for the Police when so ordered, to enter upon the premises in which any such tank or well ordered to be taken possession of by them is situate, and to take possession of the same, and to prevent the consumption of the water thereof otherwise than as drinking water, and to distribute the water thereof in such manner, and in such quantities and on such conditions as shall from time to time be ordered by Government.

Removal of Cattle.

II. It shall also be lawful for the said Governor in Council, to direct by proclamation the removal of any cattle from any part of the said Islands situate to the South of a line drawn from Love Grove on the West to Chinchpooglee on the East shore, and to authorize the Police to enforce the same by seizing and conveying to a public pound any Cattle found to the South of the said line; and the Cattle so seized and the owners thereof shall be dealt with according to the law for the time being in force for the seizure and sale of stray Cattle and the punishment of the owners.

Penalty for obstructing Police, &c.

III. Whoever impedes or obstructs the Police in the discharge of their duty under this Act, or prevents the public or any individual from coming on premises in which any private tank or well ordered to be taken possession of by the Police is situate, for the purpose of taking such water therefrom as shall be allowed by the Police, or prevents the public or any individual from taking and removing such water; and whoever wilfully does any act whereby the water of such well or tank shall be rendered unfit for drinking, or takes water in excess of the quantity allowed, or makes use of the water in any manner contrary to such orders of Government as shall be publicly notified—shall be liable, on conviction in a summary manner before a single Magistrate of Police, to a fine not exceeding one hundred rupees or imprisonment for a period not exceeding thirty days.

Compensation to owners of private tanks and other persons injured.

IV. Every owner or tenant of any private tank or well, taken for the use of the public under this Act, and every person who shall sustain loss or injury by reason of any interference with a

private right under the provisions of this Act, shall be entitled to claim compensation from the Municipal Fund of Bombay. In case of any such claim, the amount of such compensation shall be in the first place fixed and tendered by a Committee appointed by the Governor in Council; and in case of the right to compensation being denied, or of no such tender being made, or of the party or parties claiming compensation being dissatisfied with the amount tendered, such party or parties shall be at liberty to sue the Board of Conservancy in the name of their Clerk for compensation in the Supreme Court or the Court of Small Causes in Bombay, as the case may be, and the costs of every such suit shall be in the discretion of the Court trying the same; and any sum of money recovered in any such suit shall be paid out of the Municipal Fund.

MADRAS AND BOMBAY.—GAOLS.

ACT No. VIII. OF 1856.

[*Received the assent of the G. G. on the 14th March,* 1856.

Recites expediency of better control of gaols.

1. Repeals R. 15, 1803, s. 8, c. 5; R. 10, 1832, ss. 2, 3, Act 7, 1843, s. 49, partly; R. 7, 1802, s. 32; R. 10, 1832, s. 7, partly, of the Madras Code. Repeals R. 13, 1827, s. 16, c. 3; also s. 27, c. 4, partly of same R., and R. 14, 1827, s. 7, c. 4, and R. 16, 1828, ss. 4 and 5, of the Bombay Codes.

2. Control of gaols to be in G. in Council, who may, subject to sanction of G. G. in Council, appoint Inspectors and Superintendents.

An Act for the better control of the Gaols within the Presidencies of Fort St. George and Bombay.

Preamble.

Whereas it is expedient to make provision for the better control of the Gaols within the Presidencies of Fort St. George and Bombay, it is enacted as follows:

Laws repealed.

I. Clause Fifth, Section VIII., Regulation XV., 1803, and Sections II. and III., Regulation X., 1832, of the Madras Code; so much of Section XLIX., Act VII. of 1843, as authorises Sessions Judges to visit the Gaols therein mentioned and to pass orders regarding the treatment or accommodation or security of the prisoners;

Section XXXII., Regulation VII., 1802, of the said Code; and so much of Section VII., Regulation X., 1832, of the same, as is referred to in Section XLIX., Act VII. of 1843, aforesaid; and Clause Third, Section XVI., Regulation XIII., 1827, of the Bombay Code; and so much of Clause Fourth, Section XXVII., of the same Regulation, as enacts that the Court of Sudder Foujdarry Adawlut shall furnish information to Government of the state of the Gaols in each Zillah; and Clause Fourth, Section VII., Regulation XIV., 1827; and Sections IV. and V., Regulation XVI., 1828, of the same Code, are hereby repealed.

Supervision of Gaols vested in the Governor in Council, who may appoint a person or persons to inspect and superintend them.

II. From and after the passing of this Act, the control of all Gaols in each of the said Presidencies shall be vested in the Governor in Council; and it shall be lawful for the said Governor in Council, with the previous sanction of the Governor General of India in Council to the creation of the office, to appoint such person or persons as he shall think fit, to inspect and superintend the said Gaols subject to the orders of the said Governor in Council, and to vest in such person or persons such power and authority for the purposes aforesaid as to the said Governor in Council may seem proper.

BILLS OF LADING.

Act No. IX. of 1856.

[*Received the assent of the G. G. on the* 11*th April,* 1856.

Recites expediency of the contract passing, as well as the property, by endorsement of bill of lading, and that ship-master be bound by bills of lading in hands of *bonâ fide* holder, although goods not Shipped.

1. Endorsee having property in the goods to have same benefit as though named in the contract.

2. Not to prejudice stoppage in transitu or liabilities of shipper or consignee.

3. Bill of lading in hands of endorsee for value, conclusive evidence against Master, saving right of proof by latter of fraud of shipper or holder.

An Act to amend the Law relating to Bills of Lading.

Preamble.

Whereas by the Custom of Merchants a Bill of Lading of goods being transferable by endorsement, the property in the goods may thereby pass to

the endorsee, but nevertheless all rights in respect of the contract contained in the Bill of Lading continue in the original shipper or owner, and it is expedient that such rights should pass with the property; and whereas it frequently happens that the goods in respect of which Bills of Lading purporting to be signed have not been laden on board, and it is proper that such Bills of Lading in the hands of a *bonâ fide* holder for value should not be questioned by the Master or other person signing the same, on the ground of the goods not having been laden as aforesaid, it is enacted as follows:

Rights under Bills of Lading to vest in consignee or endorsee.

I. Every consignee of goods named in a Bill of Lading, and every endorsee of a Bill of Lading to whom the property in the goods therein mentioned shall pass, upon or by reason of such consignment or endorsement, shall have transferred to and vested in him all rights of suit, and be subject to the same liabilities in respect of such goods as if the contract contained in the Bill of Lading had been made with himself.

Not to affect right of stoppage *in transitu* or claims for freight.

II. Nothing herein contained shall prejudice or affect any right of stoppage in *transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods by reason or in consequence of such consignment or endorsement.

Bill of Lading in hands of consignee, &c., conclusive evidence of the shipment as against Master, &c.

III. Every Bill of Lading in the hands of a consignee or endorsee for valuable consideration, representing goods to have been shipped on board a vessel, shall be conclusive evidence of such shipment as against the Master or other person signing the same, notwithstanding that such goods, or some part thereof, may not have been so shipped, unless such holder of the Bill of Lading shall have had actual notice at the time of receiving the same that the goods had not in fact been laden on board. Provided that the Master or other person so signing may exonerate himself in respect of such misrepresentation, by showing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder or some person under whom the holder claims.

Proviso.

ARTICLES OF WAR.—NATIVE ARMY.

ACT No. X. OF 1856.

[*Received the assent of the G. G. on the 11th April*, 1856.

Substitutes new article for 122nd.

An Act to repeal the 122nd Article of War for the Native Army, and to substitute a new Article in lieu thereof.

Repealed by Act XXIX. 1861.

EUROPEAN SOLDIERS.—DESERTION.

ACT No. XI. OF 1856.

[*Received the assent of the G. G. on the 11th April*, 1856.

1. If Officer or Soldier deserting is found on board ship by reason of negligence of the Master, latter liable to Rs. 500 fine. Form of charge for this offence.

2. Punishable by Justice of Peace on summary conviction.

3. No error of form to vitiate conviction. Evidence need not be stated in conviction.

4. Offenders under Act XIV. of 1849, may be committed for trial, if not proceeded against under this Act.

5, 6. How and by whom warrant may be issued to search ship, house, &c., for deserters; and (6) to whom to be addressed.

7. Proceeding to be taken after arrest of deserter.

An Act for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty and of the East India Company in India.

Preamble.

Whereas it is expedient to make better provision for apprehending and detaining European deserters from the Land Forces in the Service of Her Majesty and of the East India Company in India, and for punishing persons who aid and encourage such deserters, it is enacted as follows:

Penalty on Master in certain cases if a deserter be concealed on board his ship.

I. If it shall appear that any Officer or Soldier, being a deserter from the said Forces, has been concealed on board any merchant vessel, and that the Master or person in charge of such vessel for the time being, though ignorant of the fact of such concealment, might have known of the same, but for

some neglect of his duty as such Master or person, or for the want of proper discipline on board his vessel, such Master or person shall be liable to a fine not exceeding five hundred Rupees. Provided always, that no conviction for such offence as is hereinbefore described shall be lawful, unless the same shall be stated in the charge which the party is called upon to answer; and in such charge it shall be lawful to state in the alternative, that the party has either knowingly harboured or concealed a deserter on board his vessel, or has, by neglect of duty or by reason of the want of proper discipline on board the vessel, allowed such deserter to be so concealed.

Proviso.

Charge may be in the alternative.

II. Any person, whether an European British subject or not, who shall be guilty of an offence punishable under this Act, shall be punishable for the same by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras, and Bombay, or for any of the Settlements of Prince of Wales' Island, Singapore, and Malacca, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate in any Port within the Territories of the East India Company, within whose jurisdiction the offence may have been committed, or such person may have been apprehended or found, whether the offence shall have been committed within the local limits of the jurisdiction of such officer or not; and any person hereby made punishable by a Justice of the Peace shall be punishable on summary conviction.

Jurisdiction.

III. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*, and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Conviction to be quashed on merits only: form of conviction, &c.

IV. Nothing in this Act contained shall prevent any Justice

Saving of proceedings under Act XIV. of 1849.

of the Peace, Magistrate, or other Officer having authority in that behalf, from committing for trial any person who shall be charged with an offence punishable under Act No. XIV. of 1849, or any other Act hereafter to be in force, notwithstanding that such offence may be also punishable under this Act. Provided that no proceedings shall have been had against such person in respect of the same offence under this Act.

Proviso.

V. Whenever on information given on oath or solemn affirmation, where by law a solemn affirmation may be used instead of an oath, to the Commanding Officer of any fort, garrison, station, regiment, or detachment, at any port or place within the Territories of the East India Company, in which no person lawfully exercising magisterial powers can be found, which oath or affirmation the several persons above-named shall severally under this Act have power to administer; or whenever, on such information as aforesaid given to any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, having jurisdiction within such port or place there shall appear reason to suspect that any European Officer or Soldier belonging to the said Forces, who may have deserted or be absent without leave, is on board any ship, vessel, or boat, or is concealed on shore at any such port or place within the Territories of the East India Company, it shall be lawful for such Commanding Officer or Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistate as aforesaid, to issue a warrant authorising the person or persons to whom such warrant may be addressed, to enter into and search, at any time of the day or night, any such ship, vessel, or boat, or any house or place on shore, and to apprehend any such Officer or Soldier, and to detain him in custody in order to his being dealt with according to law.

Commanding Officer may issue warrants for apprehension of deserters.

VI. The warrant, to be issued under the preceding Section, may be addressed to any European Officer or soldier of the said Forces, or to all Constables, Peace Officers, and other persons who may be bound to execute the warrant of any Justice of the Peace, Magis-

Warrant to whom to be addressed and by whom to be executed.

trate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, and acting in the execution of this Act; and all such persons shall be bound to execute, perform, and obey such warrant.

Persons apprehended how to be dealt with, &c.

VII. Every person who shall be apprehended under any warrant under the 5th Section of this Act, shall be brought without delay before a Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate in or near the place wherein such person shall have been arrested, who shall examine such person, and, if he shall be satisfied either by the confession of such person or the testimony of one or more witness or witnesses, or by his own knowledge, that such person is a deserter from the said Forces, shall cause him to be delivered, together with any depositions and papers relative to the case, to the Commanding Officer of the regiment, corps, or detachment to which he shall belong, if the same shall be in or near the place of such arrest, or, if otherwise, then to the Commanding Officer of the nearest military station, in order that he may be dealt with according to law.

BENGAL.—CIVIL COURT AMEENS.

ACT NO. XII. OF 1856.

[*Received the assent of the G. G. on the 9th May*, 1856.

Recites expediency of extending employment of Ameens and superseding employment of Moonsiffs in that capacity.

1. Repeals Reg. 4 of 1793, sec. 17; Reg. 3 of 1803, sec. 18; Reg. 23 of 1814, sec. 51, cls. 2 and 3, and sec. 52 of the Bengal Code.
2. Civil Court Ameens to be appointed in every district on monthly salaries.
3. How to be appointed and to what Courts attached.
4. Declaration on taking office.
5. How to be employed.
6. When accounts are referred, how to proceed.
7. When local enquiry directed, how to proceed.
8. Remuneration how to be fixed in cases other than sale of property.
9. How, when employed to sell property.
10. This Act not to interfere with certain employment of Tahseeldars, &c., by Civil Courts in N. W. Provinces, who when so employed to have powers of an Ameen under section 7.

An Act to amend the Law respecting the employment of Ameens by the Civil Courts in the Presidency of Fort William.

Preamble.

Whereas the Law by which the Civil Courts are authorised to employ Ameens upon local investigations is defective, and requires amendment; and whereas, in consequence of the extended jurisdiction which has been given to Moonsiffs and the change which has been made in the constitution of the office, it is no longer expedient that Moonsiffs should be employed in the attachment and sale of personal property, nor, except on rare and special occasions, in any of the duties enumerated in Sections L., LI., and LIII., Regulation XXIII., 1814; and it is necessary to make provision for the performance of those duties by other agency, it is enacted as follows:

Regulations Repealed.

I. Section XVII., Regulation IV., 1793, Section XVIII., Regulation III., 1803, and Clauses 2 and 3 of Section LI., and Section LII., Regulation XXIII., 1814, are repealed.

Civil Court Ameens to be appointed.

II. In each District Officers, to be designated Civil Court Ameens, shall be appointed for the purposes of this Act, and shall be remunerated by fixed monthly salaries. The number of Ameens to be employed in each District, and the salaries to be allowed to them, shall be determined by the Local Government, with the sanction of the Governor General of India in Council.

Civil Court Ameens, by whom to be appointed and to what Courts to be attached.

III. The Civil Court Ameens shall be appointed by the Judge of the District with the sanction of the Court of Sudder Dewanny Adawlut, and the Judge shall from time to time attach them to the several Courts of the District according as the state of business may require. Provided that an Ameen attached to any particular Court may, with the sanction of the Judge, be employed occasionally by any other Court.

Declaration to be made by Civil Court Ameens.

IV. Before entering upon the duties of their office, the Civil Court Ameens shall subscribe a declaration in the following form:—

I., A. B., appointed to the office of Civil Court Ameen, solemnly declare that, in the performance of the duties of my office, I will act according to the best of my abilities and judg-

ment without partiality, favour, or affection; and that I will not directly or indirectly receive for my own benefit, or knowingly permit any other person to receive on my behalf, any money, effects, or property on account of any duty which I may have to execute, except the authorized allowances of my office.

Duties of Civil Court Ameens.

V. Subject to such general directions and restrictions as may from time to time be prescribed by the Sudder Court, the Civil Court Ameens may be employed in any of the following duties:—

1. In investigating or adjusting accounts in any suit or other judicial proceeding.

2. In making local investigations when the Court may deem investigation on the spot to be requisite and proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of mesne profits or damages, in any suit or other judicial proceeding.

3. In delivering over possession of lands, houses, and other immoveable property, in execution of decrees or orders of Court.

4. In the sale of immoveable property, and of houses, gardens, and other immoveable property of the kind described in Section III., Regulation VII., 1853.

5. In ascertaining the sufficiency of sureties, and the means of persons suing in *formâ pauperis*.

VI., VII. Repealed by Act X., 1861.

Expense of Civil Court Ameens, how to be charged.

VIII. Whenever a Civil Court Ameen may be employed on any duty connected with a pending suit, or the execution of a decree, except the sale of property, the Court shall estimate the time which the duty may be expected to occupy, and shall charge for the expense of the Ameen such fixed rate *per diem* as may be determined by the Sudder Court. The amount shall be paid into Court by the party at whose instance or for whose benefit the Ameen is deputed, and shall be added to the costs of suit.

When employed to sell property, deduction to be made from proceeds.

IX. When a Civil Court Ameen shall be employed to sell property, a deduction at the rate of one anna in the Rupee shall be made from the proceeds of the sale. If no sale takes place by reason

of the claim being satisfied or for any other cause, a charge shall be made for the expenses of the Ameen according to the time he may be employed. A deposit to meet this charge, calculated in the manner prescribed in the preceding Section, shall be made before the Ameen is deputed, and shall be returned to the depositor if the sale takes place. All sums paid for the employment of Ameens, and all sums deducted from the proceeds of sales, shall be credited to Government.

Expenses, if no sale takes place.

X. Nothing contained in this Act shall be held to prohibit the Civil Courts in the North-Western Provinces of the Presidency of Fort William from making use of the agency of the Revenue officers in investigations and adjustments of accounts connected with land paying revenue to Government, under such general directions as may from time to time be prescribed by the Sudder Court. Whenever a Tahseeldar, a Naib Tahseeldar, or a Peshkar shall be employed in any such investigation or adjustment under the orders of a Civil Court, he shall possess all the powers vested in Civil Court Ameens by Section VII. of this Act; and the provisions of the said Section shall be applicable to the proceedings held by such officer.

Civil Courts in the North-Western Provinces may employ Revenue Officers in certain cases.

CALCUTTA, MADRAS, BOMBAY, AND STRAITS' SETTLEMENTS.—POLICE ACT.

Act No. XIII. of 1856.

[*Received the assent of the G. G. on the* 13*th June*, 1856.

Recites expediency of consolidatory and amending Police laws.

1. Repeals 33 G. 3, c. 52, s. 159, partly; Act 22, 1840. Also relating to Calcutta, Act 21, 1839; Act 3, 1842; 11, 1849, s. 12 and Act 13, 1852. Also relating to Madras several regulations specified, and Acts 8, 1849; 22, 1837, ss. 3, 5; 19, 1852, s. 12. Also relating to Bombay, Reg. 2, 1812; R. 1, 1813; R. 2, 1813; R. 1, 1814; R. 1, 1815; R. 1, 1818; R. 1, 1820, partly; R. 1, 1821, partly; R. 2, 1827, partly; R. 1, 1834, partly; Act 7, 1836, partly; Acts 18, 1840; 3, 1841; 9, 1851. Also relates to Straits' Settlements, Acts 3, 1847; 14, 1850; 40, 1850, exc. ss. 2, 3; 34, 1852; 14, 1851, s. 8.

2. Interpretation Clause.

3. In each of the towns, &c., Commissioner to be appointed and vested with the Police Administration.

4. Deputy Commissioners may be appointed.

5. Commissioner not usually to be a Police Magistrate, but may be for special reasons.

6. Commissioner to be justice of the Peace but with limited powers; Deputies may be justices with like limitation.

7. Numbers of Police force to be determined by Government.

8. Orders for Government classification, &c., of Police force, how to be isssued.

9. Abolishes power of Courts in Straits to appoint constables.

10. Appointments and removals in Police force to be by Commissioner.

11. Who may fine a member of the force for misconduct.

12. A member of the force, subject on conviction of breach of Police regulations before a magistrate, to fine and imprisonment.

13. Punishment for bribery in a member of the Police force.

14. Certificate of Commissioner symbol of authority of a member of Police force.

15. How and on what conditions a member may resign or withdraw from the force; non-compliance with condition to subject to fine or imprisonment.

16. On dismissal or ceasing to be a member, delivery of certificate, clothing, &c., penalty.

17. Compulsory contribution to "The Police Superannuation Fund."

18. Pensions on superannuation.

19. Disability from injury in execution of duty to entitle to allowance from Police Superannuation Fund.

20. Commissioner may appoint special constables.

21. May also appoint extra constables on requisition and charge of individuals.

22. Government may constitute Police Districts and Police Courts.

23. Commissioner to appoint sufficient number of Police force to attend each magistrate.

24. All process to be served by police officer.

25. Warrant, how to be executed.

26. Cl. 1.—Magistrate may summarily try, or, where offence cognizable by Sup. Court, commit offenders against this Act.

Cl. 2.—Magistrate may flog boys instead of imprisonment.

27. Thieves and fraudulent Receivers, where property does not exceed Rs. 50, punishable with imprisonment not exceeding six months with or without labour, or, if a male, thirty stripes.

28. Embezzlement, fraudulent breach of trust, false pretences, where property does not exceed Rs. 50; penalty, imprisonment not exceeding six months, with or without labour.

29. Instigating or aiding offences in 27th and 28th secs.; penalty, imprisonment not exceeding six months with or without labour.

30. Fraudulent disposition of property found if not exceeding Rupees 50; like penalty, if above that sum, magistrate to commit, and offender punishable as for larceny.

31. Court of Petty Sessions in Bombay, on committal of magistrate, may punish offenders under four last sections with imprisonment for period not exceeding if a twelve months, with or without labour, or, where offence under 27th section, male, thirty stripes.

32. Cl. 1.—In Calcutta and Madras, when offence charged under sections 27, 28, 29, on board a ship in those ports under circumstances specified, two magistrates to try instead of offender being committed to Sup. Court.

Cl. 2.—In Bombay, in such cases, commitment to be to Petty Sessions.

Cl. 3.—In all such cases, discretion remains to commit to Sup. Court.

33. Restitution of property stolen, &c., may be ordered, or equivalent fine as compensation to the owner.

34. Fine may also be imposed as compensation for loss occasioned by the offence.

35. Cl. 1.—Possessor of property, reasonably suspected of being stolen or fraudulently obtained, may be called to account; penalty on failure, fine to one hundred rupees, or imprisonment not exceeding three months, with or without labour.

Cl. 2.—Persons through whom possession of such property passed to present possessor may be examined, and witnesses; if any such person had guilty knowledge, penalty, fine to one hundred rupees, or imprisonment as in Cl. 1.

36. When property, charged to be stolen, &c., in custody of police, magistrate to order delivery to apparent owner, subject to claim by civil action within two months.

37. Forcible injury to person or property, not being felony, punishable by fine to one hundred rupees, or imprisonment not exceeding four months with or without labour; fine or a part may be given to party aggrieved.

38. Assaulting or resisting police officer on duty, or insisting it; penalty, fine to two hundred rupees, or imprisonment not exceeding six months with or without labour.

39. Escape from legal confinement; penalty, imprisonment not exceeding three months, with or without labour to commence after expiry of existing sentence.

40. Trespass, unjustifiably, on dwelling house or premises or public ground without damage; penalty, fine to twenty rupees.

41. Unjustifiable disturbance of religious worship or ceremonies; penalty, fine to five hundred rupees, or imprisonment not exceeding six months with or without labour, or both.

42. Trespass on place used for religious ceremony with intent to disturb or offend; penalty, fine to one hundred rupees.

43. Wilful neglect to maintain wife or any child; magistrate may order monthly maintenance to fifty rupees, and, on disobedience, may levy by warrant or imprison for not longer than one month, with or without labour. Application may be made from time to time to reduce maintenance.

ole abduction of female, or enticing away female under fourteen ion or disposal in marriage, a misdemeanour; penalty, on summary ion, imprisonment not exceeding six months, or fine to five hundred s, or both; or may be committed to Supr. Court.

45. Upon information, magistrate may compel such woman being set at liberty or female child being restored to husband, &c.

46. When sun is down being armed with felonious intent: reputed thief on board boat, or loitering in bazaar, not giving satisfactory account of himself, being disguised with felonious intent, being in a building and not giving satisfactory account, possessing unjustifiably house-breaking implement; penalty, Police officer may arrest without warrant—imprisonment not exceeding three months with or without labour.

47. Any other than soldier or sailor of the Navy or Policeman going armed publicly, unless by leave of Commissioner, may be disarmed by Police, and weapon confiscated, unless redeemed by fine not exceeding ten rupees.

48. Whoever (not being subject to military law, takes to barracks, ship of war, &c., spirits, &c., without license; penalty, fine to one hundred rupees or imprisonment not exceeding two months, with or without labour.

49. Conveying spirits, &c., to gaol or hospital; penalty, fine to fifty rupees or imprisonment not exceeding two months, with or without labour.

50. Keeping tavern, &c., or selling spirituous or fermented liquors, in Calcutta, Madras or Bombay, without license of Commissioner; penalty, fine to fifty rupees daily.

51. Commissioner to grant licenses on such conditions (to be approved by Local Government) and such term (not more than a year) as he may order. License not to be in contravention of Abkaree or Excise laws. English and Vernacular sign board to be put up. The fee leviable on retailers in Bombay and Colaba applicable to these licenses.

52. Breach of condition of license; penalty, fine to one hundred rupees, and liability to forfeit license.

53. Permitting (in Calcutta, Madras, Bombay, or Straits) disorderly conduct of persons, or harbouring soldier, seaman or apprentice, if reason to believe him deserter, in licensed places; penalty, fine to one hundred rupees and liability to forfeit license.

54. Harbouring any where seaman or apprentice of merchant vessel, if reason to believe him deserter; penalty, fine to one hundred rupees.

55. Using a house as a brothel or for disorderly persons; penalty, on complaint of three householders, and if not discontinued within five days, daily fine to twenty-five rupees.

56. Using a place or permitting one's place to be used for gaming, or assisting in or furnishing money for doing so; penalty, fine to five hundred rupees or imprisonment not exceeding three months with or without labour.

57. Being in a gambling-house for purpose of gaming; penalty, fine to two hundred rupees, or, imprisonment not exceeding one month, with or without labour.

58. Commissioner may grant warrant to enter and search gam
to arrest and search persons therein and seize instruments of gaming

59. When instruments of gaming found in any place, or on person
found there, and information on oath that place suspected of being com
gaming-house, this shall be proof of gambling until rebutted.

60. On conviction, instruments of gaming to be destroyed; and other things seized, including securities for money, may be converted into money and proceeds or part thereof may be forfeited.

61. Proof that the gambling was for stake or wager not necessary.

62. One who discloses as a witness, all he knows, shall be freed by magistrate's certificate from liability for previous gambling offences.

63. Act not to apply to games of mere skill in licensed houses.

64. Whoever wins by fraud or ill practice in, or in wagering upon, any game or pastime; guilty of crime of false pretences.

65. One-fourth of fine under sections 56 and 57, and any part of property forfeited under section 60, may be paid to informer.

66. Being present at gambling or cock-fighting in public road; penalty, arrest without warrant, also fine to twenty rupees, or imprisonment not exceeding one month with or without labour; instruments of gaming to be forfeited.

67. Taking pledge or buying from child under fourteen; penalty, fine to one hundred rupees.

68. Pawn-broker, second-hand dealer, or money changer, being informed by Police of stolen or fraudulently obtained property, not giving information when such property offered to him and by whom; penalty, fine to fifty rupees for every neglect. Provided, as to wearing apparel and articles difficult to trace or indentify, must appear that accused knowingly concealed.

69. Pawn-broker, second-hand dealer or gold and silver worker, who being informed of theft or fraudulent disposal of goods, yet melts, alters or puts them away, without permission of Commissioner, and they be found to be stolen, &c., guilty as a Receiver.

70. Manufacturing gunpowder, or having, without license of Commissioner, more than ten pounds gunpowder in one's possession; penalty, fine to five hundred rupees and forfeiture.

71. Commissioner may grant license for sale or possession of not more than fifty pounds gunpowder, on condition, and for any term not exceeding one year; penalty, for breach of condition, fine to two hundred rupees and forfeiture.

72. Commissioner may grant license to carry gunpowder. Carrying without license more than one pound; penalty, fine to fifty rupees.

73. Commissioner may issue warrant to search for gunpowder.

74. Four last sections not to extend to Government Magazine or to H. M.'s or E. I. Co.'s gunpowder.

75. Retail dealer possessed, without lawful excuse, of false weight or measure; penalty, fine to fifty rupees or imprisonment not exceeding one month with or without labour: false weight, &c., to be destroyed, Standard weights and measures to be kept at the Commissioner's Office.

76. Superior Police Officer may search for and seize weights and measures believed to be false.

77. Subject to orders of Government, Commissioner may make rules for processions and for keeping order in public roads and to prevent obstructions, and may license music in public roads. Disobeying Commissioner's orders; penalty, fine to one hundred rupees.

78. Boats not to ply unless registered, and labelled, in manner directed; penalty for disobedience, fine to fifty rupees.

79. Commissioner may refuse or cancel registration.

80. When loss of life from accident to boat and report not made, without delay, to Police Office; penalty, fine to fifty rupees on manjee or owner.

81. Eighteen specified offences in public street; penalty, fine to twenty rupees.

82. Helplessness from intoxication, or indecent behaviour, in street or public place, and indecent behaviour in any Police Office; penalty, fine to twenty rupees, or imprisonment not exceeding fourteen days with or without labour.

83. Injury to or improper interference with lamp or lamp-post; penalty, fine to twenty rupees, or imprisonment not exceeding fourteen days with or without labour; fine payable to Municipal Commissioners if lamp their property.

84. Indecent nuisance in street; penalty, fine to ten rupees, or imprisonment for fourteen days with or without labour.

85. Public begging for alms, or seeking alms on false pretence; penalty, imprisonment not exceeding one month with or without labour.

86. Police Officer, on view, may arrest offender under this Act.

87. Under circumstances specified, Police Officer may arrest one accused of aggravated assault not in his view.

88. For injury to person or property, offender may, if name and address unknown, be detained by person injured (and some others) until name and address be obtained or delivery to Police Officer.

89. Forcible resistance by person detained under last section; penalty, fine to two hundred rupees.

90. How person arrested without warrant to be dealt with.

91. Power given to Superior Police Officer to enlarge, on bail or otherwise, person arrested without warrant.

92. Condition of recognizance to be taken from such person.

93. Search warrant; when, and powers of, and duty of Police Officer under.

94. Inspector of Police, under specified circumstances, may search without warrant.

95. When Magistrate may, ordinarily, issue warrant.

96. Service of summons.

97. Magistrate may issue warrant without summons.

98. How appearance of witnesses to be enforced, and disobedience punished.

99. How to proceed when witness in gaol.

100. Magistrate may commit for perjury before him.

101. Magistrate may adjourn hearing, admitting defendant to bail or detaining him, and, if not a criminal offence, may decide exparte, and may dismiss for non-prosecution with or without costs.

102. Magistrate may award costs; recoverable as fines.

103. Magistrate may award amends for false complaint not exceeding fifty rupees, recoverable as fines.

104. Offences not felonies may be compromised, it might be subject of action for damages.

105. Fines how to be levied.

106. Irregularity in distress not to vitiate.

107. Recognizance for appearance, forfeiture and penalty recoverable as a fine, on Magistrate's certificate.

108. Cl. 1.—Magistrate may take recognizance of the peace, or for good behaviour as a Justice of the Peace.

Cl. 2.—If such recognizance, not being for more than two-hundred rupees, be forfeited, penalty recoverable on Magistrate's certificate, as fines.

Cl. 3.—How sureties in such recognizance to be proceeded against.

109. Powers conferred by this Act on Magistrates to be exercised by Petty Sessions in Bombay.

110. Form of judgment on adjudication under sections 27, 28, 29, 30.

111. Judgment to be quashed on merits only. Proceeding on *certiorari*.

112. Limitation, notice, amends, and costs, in case of complaint for anything done under this Act.

113. Personal property of intestate, not exceeding two hundred rupees, may be delivered by Commissioner to claimant, on proof of title.

114. Before doing so, Commissioner may require security. Right of real owner not prejudiced.

115. Stray animals may be impounded; mode of proceeding, charges, &c.

116. Power of Commissioner to destroy stray dogs.

117. On application of Consul, Magistrate may apprehend seaman-deserter from foreign ship: proceeding.

118. Act to commence from 1st November, 1856.

An Act for Regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Preamble.

Whereas it is expedient to consolidate and amend the Laws relating to the Police, and the administration of Justice in the Police Courts of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca, it is enacted as follows:

I. The several Acts, and Rules, Ordinances and Regulations,

Acts, &c., repealed.

mentioned in the Schedule hereunto annexed, are hereby repealed, except so far as they repealed the whole or any part of any other Act or Rule, Ordinance and Regulation, and except as to any act or offence which shall have been done or committed, or to any money which shall have become due, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced, before this Act shall come into operation; and Sections II. and IV. of Act XXII. of 1837, and Sections XXII., XXXI., XXXII., XXXIII., XXXV. and XXXVII. of Act XIX. of 1852; shall be read as if the words "a Magistrate of Police" where substituted therein for the words "the Superintendent of Police or one of his Deputies."

Interpretation.

II. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say):

"Local Government."

The expression "Local Government" shall mean the person or persons for the time being immediately administrating the Executive Government of that portion of the Territories in the possession and under the Government of the East India Company, in which the Town or Station is situated.

"Magistrate."

The word "Magistrate" shall mean any Magistrate of Police acting for the place where the matter, requiring the cognizance of a Magistrate, arises.

"Town."

The word "Town" shall include all places within the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature at Calcutta, Madras and Bombay.

"Station."

The word "Station" shall mean any one of the Stations of Prince of Wales' Island, Singapore, and Malacca, and the dependencies thereof.

"Property."

The word "Property" shall include any chattel, money, or valuable security.

Her Majesty's Supreme Court of Judicature."

The term "Her Majesty's Supreme Court of Judicature" shall include the Court of Judicature of the Settlement of Prince of Wales' Island, Singapore, and Malacca, and every division of that Court.

"Number."

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

"Gender."

Words importing the masculine gender shall include females.

"Person."

The word "person" shall include a corporation.

"Month."

The word "month" shall mean calendar month.

"Oath."

The word "Oath" shall include any affirmation or declaration lawfully substituted for an oath.

"Cattle."

The word "Cattle" shall, besides horned cattle, include horses, asses, mules, sheep, goats, and swine.

Appointment and removal of Commissioner of Police.

III. Administration of the Police in each of the said Towns and Stations shall be vested in an Officer to be styled the Commissioner of Police for such Town or Station, who shall from time to time be appointed by the Local Government, and may be removed by the same authority, and who shall receive such salary as the Governor General of India in Council shall allow. All powers which by Law are given to a Superintendent of Police in any such Town or Station shall be vested in the Commissioner of Police, except as is otherwise provided by Section I. of this Act.

Appointment of Deputies to the Commissioner of Police.

IV. The Local Government, with the sanction of the Governor General in Council may, from time to time, appoint one or more Deputies to the Commissioner of Police, who shall be competent to perform any of the duties assigned to that Officer under his orders. The Deputy Commissioners may be removed at any time by order of the Local Government.

Commissioner of Police shall not ordinarily be a Magistrate.

V. The Commissioner of Police shall not ordinarily be a Magistrate of Police under this Act, but, with the sanction of the Governor General of India in Council, may be appointed to that office, when the Local Government, for special reasons, may deem it expedient.

Commissioner of Police to be a Justice of the Peace, but to act only in certain cases.

VI. The Commissioner of Police shall be appointed a Justice of the Peace, but, unless he is vested with the jurisdiction of a Magistrate of Police, he shall act as a Justice only so far as may be necessary for the preservation of the peace, the prevention of crimes, and the detection, apprehension and detention of offenders in order to their being brought before a Magistrate of Police; and so far as may be necessary for the performance of the duties assigned to the Commissioner by this Act. The Deputies to the Commissioner of Police may be appointed Justices of the Peace, and, if so appointed, shall act in that capacity, subject to the above restriction.

Constitution of Police Force.

VII. For each of the said Towns and Stations there shall be a Police Force, which shall consist of such number of Officers and men, and shall be otherwise constituted in such manner, as shall be, from time to time, ordered by the Local Government, with the sanction of the Governor General of India in Council.

The Police Force to be under the control of the Commissioner. Rules for the Government of the Force to be made by the Commissioner and approved by Government.

VIII. The Police Force shall be under the exclusive direction and control of the Commissioner of Police, who may, from time to time, subject to the approbation of the Local Government, frame such orders and regulations as he shall deem expedient, relative to the general Government of the Force, the places of residence, the classification, rank, distribution, and particular service of the several members thereof; their inspection; the description of arms, accoutrements, and other necessaries to be furnished to them; and all such other orders and regulations relative to the said Police Force as the said Commissioner shall, from time to time, deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties.

No Peace Officers in the Straits' Settlement to be appointed by the Court of Judicature.

IX. In the Settlement of Prince of Wales Island, Singapore, and Malacca, no Constable or subordinate Peace Officer, or other person appointed to perform duties of Police, shall be appointed by the Court of Judicature of the Settlement, or by any division of that Court, at their General and Quarter Sessions or otherwise.

X. The appointment of the members of the Police Force shall rest with the Commissioner of Police, and he may, at any time, suspend or dismiss any member of the Force, whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Appointment, &c., of the Police Force to rest with the Commissioner.

XI. For any lesser breach of discipline, or other misconduct not requiring the suspension or dismissal of the offender, a member of the Police Force may be fined by the Commissioner in any sum not exceeding one-half of his monthly pay.

Power of Commissioner to fine members of the Police Force.

XII. For neglect or violation of duty in his office, and for any breach of the orders and regulations framed as aforesaid, every member of the Police, besides being suspended or dismissed from his employment at the discretion of the Commissioner, shall be liable, on conviction before a Magistrate, to a fine not exceeding one hundred Rupees (which may be deducted from any salary then due to such offender), or to imprisonment, with or without hard labour, for any time not exceeding three months.

Additional penalties for members of the Police Force for neglect of duty, &c.

XIII., XV., XXXII., XXXIII., XXXIV., XXXVIII., XXXIX., XL., XLIII., L., LI., LII., LV., LIX., LXVII., LXXV., LXXVI., LXXVIII., LXXXI., LXXXII., XCIX., CV., CXII., CXV. Repealed by Act XLVIII., 1860, and new Sections substituted, which are to be read as part of this Act.

XIV. Every Member of the Police Force shall receive on his enrolment a certificate, (A) under the signature of the Commissioner of Police, by virtue of which he shall be vested with the powers, functions, and privileges of a Constable. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the force.

Member of Police Force to receive Certificates vesting them with the powers of a Constable.

XVI. Every member of the Police Force, who shall be dismissed from, or shall cease to hold and exercise his office, and who shall not forthwith deliver up his Certificate, and all the clothing, accoutrements and appointments, and other necessaries which may have been supplied to him for

Penalty for dismissed members of Police Force not delivering up clothing, accoutrements, &c.

the execution of his duty, to the Commissioner, or to such person, and at such time and place as shall be directed by the said Commissioner, shall be liable, on conviction before a Magistrate, to imprisonment, with or without hard labour, for any time not exceeding one month. And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accoutrements, appointments, and other necessaries which shall not be so delivered over, wherever the same may be found.

Police Superannuation Fund.

XVII. There shall be deducted from the pay of every member of the Police Force, of a class not entitled to the benefit of Uncovenanted Service Pension Rules, a sum after such rate as the Local Government shall direct, not being a greater rate than half an anna in the Rupee; which sum so deducted, and also the moneys accruing from stoppages from members of the Police Force during absence from sickness or other cause, and fines imposed on members thereof for misconduct, and from fines imposed by Magistrates upon drunken persons, or for assaults upon Police Officers, and all moneys arising from the sale of worn or cast-off clothing, or other articles supplied for the use of the Police, shall from time to time be invested in such manner and in such securities as the Local Government may, in writing, direct, and the interest and dividends thereof, or so much of the same as shall not be required for the purposes hereinafter mentioned, shall be likewise invested as aforesaid, and accumulate, so as to form a Fund, to be called "The Police Superannuation Fund," and shall be applied from time to time to payment of such superannuation or retiring allowances or gratuities as may be ordered by the Local Government, at any time, to any of the aforesaid members of the Police Force as hereinafter provided.

Superannuation Pensions to Members of the Police Force.

XVIII. It shall be lawful for the Local Government to order that any member of the Police Force, as aforesaid, who is incapacitated from further employment by old age, protracted ill health, loss of sight, or other bodily or mental infirmity, may be superannuated, and receive thereupon, out of the Police Superannuation Fund, a monthly pension, subject to the following conditions, and not exceeding the following proportions, that is to say:—

First.—If the period during which the individual shall have been actually employed in the Police Force be more than sixteen years, but less than twenty-four years, the amount of the pension shall not exceed one-third of the monthly salary or authorized official allowances of such individual, calculated on an average of five years previously to the date of the application for such pension.

Secondly.—If the period of actual service be twenty-four years or upwards, the amount of the pension shall not exceed one-half of the salary or authorized allowances of the individual, calculated in the manner above stated.

Proviso.

Provided that nothing in this Section shall be construed to entitle any member of the Police Force absolutely to any superannuation allowance, or to prevent him from being dismissed without superannuation allowance.

Allowances to Officers disabled by wound, &c., in execution of duty.

XIX. If any Officer of the Police Force as aforesaid shall be disabled by any wound or injury received in the actual execution of the duty of his office, it shall be lawful to grant to him, out of the Police Superannuation Fund, any monthly allowance not more than the half of his pay.

Commissioner of Police may appoint Special Constables when necessary.

XX. The Commissioner of Police may, of his own authority, appoint special Constables to assist the Police Force on any temporary emergency.

Appointment of additional Constables on the application of private individuals.

XXI. The Commissioner of Police may also, if he shall think fit, on the application of any person showing the necessity of it, appoint any additional number of Constables to keep the peace at any place within his jurisdiction, at the charge of the person applying, but subject to the orders of the said Commissioner, and for such time as he shall think fit; and every such Constable shall receive a Certificate, by virtue of which he shall be vested with all the powers, privileges, and duties of the Constables belonging to the Police Force.

Proviso.

Provided that the person upon whose application such appointment shall have been made may, upon giving one month's notice in writing to the Commissioner of Police, require that the Constables so appointed at his expense shall be

discontinued, and thereupon the said Commissioner shall discontinue such additional Constables; and all moneys received by the Commissioner for the payment of any such additional Constables shall be accounted for by him.

Police Districts.

XXII. The Local Government, with the sanction of the Governor General of India in Council, may constitute, within the Towns of Calcutta, Madras, and Bombay respectively, and within the said Settlement, so many Police Districts as to such Government shall seem fit, and define the extent thereof; and from time to time alter the number and extent of such Police Districts, and establish a Police Court in and for each of such Districts, or in and for such other Districts as the Local Government may consider necessary. The Local Government may, from time to time, appoint a sufficient number of fit persons as Magistrates of Police for the said Towns and stations respectively, who may sit and act as such Magistrates in any of the said Police Courts. Every person so appointed, before he shall act as such Magistrate of Police, shall also be appointed a Justice of the Peace, and shall exercise all powers and Jurisdictions which by virtue of any Law may be exercised by two Justices of the Peace.

Appointment of Police Magistrates.

Police Officers to be in attendance at the Police Courts.

XXIII. The Commissioner of Police shall take care that a sufficient number of Officers belonging to the Police Force shall be in attendance upon every Magistrate sitting at any Police Court, for the purpose of executing all such orders and process as may be directed or delivered to them.

Service of Criminal process by Police Officer.

XXIV. All summonses, subpœnas, and warrants issued in any criminal proceeding by a Commissioner or Deputy Commissioner of Police, or by any Magistrate of Police, shall be served and executed within the said Towns and Stations by an Officer of the Police Force and by none other.

Execution of warrants.

XXV. When any warrant shall be directed or delivered to any such Officer, unless the authority issuing it shall order that it be executed without delay, such Police Officer shall deliver the same to the superior Officer in charge of the Division to which he belongs, who shall

appoint, by endorsement thereon, one or more Police Officers to execute the same; and every Police Officer, whose name shall be so endorsed thereon, shall have the same powers, privileges, and protection as if the same had been originally directed to him by name.

Trial and punishment of offences.

XXVI. *Clause* 1.—Whoever is charged with having committed any of the offences mentioned in this Act, within any of the said Towns or Stations, or within the limits of any of the Ports of the said Towns or Stations, or of any navigable river or channel leading thereto, as such limits shall be defined under the provisions of Act No. XXII. of 1855 (An Act for the Regulation of Port and Port-dues), may be tried summarily, by a Magistrate for such Town or Station, and, on conviction, on his own confession, or on the oath of one or more credible witnesses, may be sentenced by such Magistrate to the punishment hereinafter prescribed for the offence; or, if the offence is cognizable by Her Majesty's Supreme Court of Judicature, may, at the discretion of the Magistrate, be committed for trial before such Court.

Punishment of juvenile offenders.

Clause 2.—Provided that, whenever any male person is convicted before a Magistrate of any offence summarily punishable under this Act with imprisonment, the Magistrate may, if the person so convicted appears to him to be of such tender years as to require punishment rather in the way of school discipline than of ordinary criminal justice, sentence him to corporal punishment with a light rattan or cane not exceeding ten stripes on the bare buttocks, instead of imprisonment.

Stealing or receiving stolen property not exceeding the value of fifty Rupees.

XXVII. Whoever steals, or attempts to steal, any property, or fraudulently receives any stolen property knowing the same to be stolen, the value of which property, in the opinion of the Magistrate, does not exceed fifty Rupees, shall be liable to imprisonment, with or without hard labor, for a term not exceeding six months, or, if a male, to corporal punishment not exceeding thirty stripes of a rattan.

Embezzlement, &c.

XXVIII. Whoever embezzles, fraudulently misapplies in breach of trust, or obtains, or attempts to obtain by false pretences, any property, the

value of which, in the opinion of the Magistrate, does not exceed fifty Rupees, shall be liable to imprisonment, with or without hard labor, for a term not exceeding six months.

Summary conviction of accessories.

XXIX. Whoever instigates or aids the commission of any of the offences mentioned in the last two preceding Sections, shall be liable to imprisonment, with or without hard labor, for any term not exceeding six months.

Wrongful appropriation of property found.

XXX. Whoever, finding any property not in the possession of any person, takes it into his own possession, and (with intent to despoil the owner) fraudulently disposes of it, shall, if the property does not, in the opinion of the Magistrate, exceed the value of fifty Rupees, be liable to imprisonment, with or without hard labor, for a term not exceeding six months; and if, in the judgment of the Magistrate, the property exceed the value of fifty Rupees, may be committed for trial to Her Majesty's Supreme Court of judicature; and, upon conviction in such Court, shall be liable to be punished in the same manner as if he had been convicted of simple larceny, whether the offence shall amount to larceny or not.

If the property exceed the value of 50 Rs., the offender may be committed for trial and punished as if convicted of larceny.

In Bombay certain offenders may be committed for trial before the Court of Petty Sessions.

XXX. Provided that, in the town of Bombay, a Magistrate may commit for trial before the Court of Petty Sessions any person charged before him with any of the offences mentioned in Sections XXVII., XXVIII., XXIX., and XXX. of this Act; and the said Court may, on conviction, sentence the offender to imprisonment, with or without hard labor, for a term not exceeding twelve months, and in cases falling under Section XXVII. if a male to corporal punishment not exceeding thirty stripes of a rattan.

Fraudulent possession of stolen property.

XXXV. *Clause* 1.—Whoever has in his possession, or conveys in any manner, any thing which may be reasonably suspected of being stolen or fraudulently obtained, shall, if he fail to account satisfactorily how he came by the same, be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labor, for any term not exceeding three months.

Clause 2.—If any person, charged with having or conveying any thing stolen or fraudulently obtained, shall declare that he received the same from some other person, or that he was employed as a carrier, agent, or servant to convey the same for some other person, the Magistrate may cause every such other person, and also, if necessary, every former or pretended purchaser or other person through whose possession the same shall have passed (provided that such other person shall be alleged to have had possession of the same within the jurisdiction of such Magistrate) to be brought before him and examined, and shall examine witnesses upon oath touching the same; and if it appear to such Magistrate, that any person so brought before him had possession of such thing and had reasonable cause to believe the same to have been stolen or unlawfully obtained, such person shall be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Power to summon persons declared to have had possession of such property within the jurisdiction of the Magistrate.

Penalty if such possession fraudulent.

XXXVI. If any property, charged to be stolen or fraudulently obtained, shall be in the custody of any Police Officer by virtue of any warrant of a Magistrate, or in prosecution of any charge of felony or misdemeanour in regard to the obtaining thereof, and the person charged with stealing or so obtaining possession thereof shall not be found, or shall have been summarily dealt with or discharged, or shall have been tried and acquitted, or if such person shall have been tried and found guilty, but the property so in custody shall not have been included in the indictment upon which he shall have been found guilty, it shall be lawful for any Magistrate to make an order for the delivery of such property to the party who shall appear to be the rightful owner thereof; or, in case the owner cannot be ascertained, then to make such order with respect to the property as to the Magistrate shall seem meet. Provided always, that no such order shall be any bar to the right of any person to sue the party to whom the property shall be delivered, and to recover such property from him by action at Law, so that the action be commenced within two months next after such order shall have been made.

Disposal of stolen property in custody of Police.

XXXVII. Whoever commits any assault, forcible entry, or

Cases of assault, forcible entry, or injury, not being felony

other injury, accompanied with force, not being felony, against the person or property of any person whatsoever, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding four months. And if the penalty adjudged be a fine, the Magistrate may award the whole or any part thereof to the party aggrieved by way of satisfaction for such injury.

Disturbing an assembly engaged in religious worship.

XLI. Whoever, without excuse, lawful, intentionally causes disturbance to any assembly or procession lawfully engaged in the performance of religious worship or religious ceremonies, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both.

Trespassing with intent to disturb any person in the performance of, or to insult, any religious ceremony, &c

XLII. Whoever wilfully trespasses on the premises of any person, or on any place used or set apart for the performance of any religious ceremony, with intent to disturb any person in the performance of any religious right or ceremony, or to offend the religious feelings of any person, shall be liable to a fine not exceeding one hundred Rupees.

Taking or enticing away woman or female children under the age of 14 years

XLIV. Whoever unlawfully takes away, or detains against her will, any woman or female child; or unlawfully takes, or entices away, or detains, any female child under the age of fourteen years, out of the possession, custody, or protection, and against the will of the husband, parent, guardian, or other person, who has the lawful charge or government of such child, for the purpose of living in adultery or concubinage with such woman or child, or for the purpose of prostitution, or of deflouring her, or disposing of her in marriage, shall be guilty of a misdemeanour, and shall, on summary conviction before a Magistrate, be liable to imprisonment, with or without hard labor, for any term not exceeding six months, or to fine not exceeding Five hundred Rupees, or to both; or, at discretion of the Magistrate, may be committed for trial before Her Majesty's Supreme Court of Judicature.

Magistrate may punish offender summarily or commit for trial.

Magistrate may compel immediate restoration of such woman or child.

XLV. Upon complaint made to a Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any of the purposes aforesaid, such Magistrate may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or such other person as aforesaid, as the case may be, and may compel compliance with such order, using force if necessary.

Apprehension and punishment of reputed thieves, &c.

XLVI. Any person found between sun-set and sun-rise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any felonious act; any reputed thief found between sun-set and sun-rise, on board any vessel or boat or lying or loitering in any bazaar, street, road, yard, thoroughfare, or other place, who shall not give a satisfactory account of himself; any person found between sun-set and sun-rise having his face covered or otherwise disguised, with intent to commit any felony; any person found between sun-set and sun-rise, in any dwelling house or other building whatsoever, without being able satisfactorily to account for his presence therein: and any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking—may be taken into custody by any Police Officer without a warrant, and shall be liable to imprisonment, with or without hard labor, for a term not exceeding three months.

Penalty for carrying arms without authority.

XLVII. Whoever, not being a soldier or sailor in the Army or Navy of the Queen or the East India Company, or a Police Officer, goes armed with any sword, spear, gun, or other offensive weapon, in any street, thoroughfare, or public place, unless by leave of the Commissioner of Police, shall be liable to be disarmed by any Police Officer; and the weapon so seized shall be forfeited to the Government, unless redeemed by payment of a fine, at the discretion of the Commissioner, not exceeding ten Rupees.

Penalty for taking spirits into Barracks or on board vessels of War.

XLVIII. Whoever, not being amenable to the Articles of War, takes, or attempts to take, into Fort William at Calcutta, or Fort St. George, or into the Barracks, or Buildings occupied by

the troops composing the garrison of Bombay, or into any Military Barracks, guard-rooms or encampments, within any of the said Towns or Stations, or on board or alongside of any Vessel of War belonging to Her Majesty or the East India Company in the Ports of the said Towns or Stations, any spirit or spirituous or fermented liquors, or intoxicating drugs or preparations, without the license of the Commanding Officer (unless such articles belong to some person above the rank of Non-Commissioned Officer), shall be liable to a fine not exceeding one hundred Rupees, or imprisonment for any term not exceeding two months, with or without hard labour; and such liquors, drugs, or preparations, and the vessels containing the same, shall be forfeited.

Penalty for taking spirits, &c., into Gaol.

XLIX. Whoever takes, or attempts to take without due permission, or throws, or attempts to throw into any Gaol or House of Correction, or into any public hospital, any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, shall be liable to a fine not exceeding fifty Rupees, or to imprisonment, with or without hard labour, for any term not exceeding two months.

Disorderly conduct in houses of public entertainment.

LIII. Whoever, being the keeper of any such house or place of public resort and entertainment in the said Towns, or of any house or shop within the said Settlement of Prince of Wales' Island, Singapore and Malacca, licensed under Act XIV. of 1851, knowingly permits drunkenness or other disorderly behaviour in such house or place, or knowingly suffers any gaming whatsoever therein, or who knowingly permits prostitutes or persons of notoriously bad character, to meet or remain therein, or who wilfully harbours or conceals any soldier, seaman or apprentice, knowing or having reason to believe such soldier, seaman or apprentice to be a deserter, shall be liable to a fine not exceeding One hundred Rupees, and shall also be liable to forfeit his license.

Penalty for harbouring and concealing deserters from merchant vessels.

LIV. Whoever, in any place within any of the said Towns or Stations, wilfully harbours or conceals any seaman or apprentice belonging to a merchant vessel, knowing or having reason to believe such seaman or apprentice to be a deserter, shall be liable to a fine not exceeding One hundred Rupees.

Penalty for owning or keeping, or being employed in a gaming-house, &c.

LVI. Whoever, being the owner or occupier, or having the use of any house, room or place, opens, keeps or uses the same for the purpose of gaming being carried on therein, and whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be opened, kept or used by any other person for the purpose aforesaid; and whoever has the care or management of, or in any manner assists in conducting the business of any house, room or place opened, kept or used for the purpose aforesaid; and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, room, or place—shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding three months.

Penalty for being found playing in a gaming-house.

LVII. Whoever is found in any such house, room or place, playing or gaming with cards, dice, counters, money, or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake, or otherwise, shall be liable to a fine not exceeding two hundred Rupees or to imprisonment, with or without hard labor, for any term not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Commissioner of Police or Magistrate may grant warrants to Police Officers to enter a gaming-house for the purpose of search and seizure.

LVIII. If the Commissioner of Police, upon information on oath, and after such enquiry as he may think necessary, has reason to believe that any house, room, or place is used as a common gaming-house, he may, by his warrant, give authority to any Inspector or superior Officer of Police to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room, or other place, and to take into custody all persons whom he finds therein, whether or not then actually gaming, and to seize all instruments of gaming, and all moneys, and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein, and to search all parts of the house, room, or place

which he shall have so entered when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody, and to seize and take possession of all instruments of gaming found upon such search.

On conviction for keeping a gaming house instruments of gaming to be destroyed, &c.

LX. On conviction of any person for keeping any such common gaming-house, or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate, who may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all moneys seized therein, to be forfeited, or in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for stakes unnecessary.

LXI. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager, or stake.

Witnesses indemnified.

LXII. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act, relating to gaming, and who, upon such examination, shall make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for any thing done before that time in respect of such gaming.

Act not to apply to certain games.

LXIII. Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill played at licensed Hotels, Taverns, or Eating-Houses, or places of public resort.

Penalty for cheating at games.

LXIV. Whoever, by any fraud or unlawful device, or ill-practice in playing at or with cards, dice or other game, or in bearing a part in stakes, wagers, or adventures, or in betting on the sides or hands of them

that do play, or in wagering on the event of any game, sport, pastime, or exercise, wins from any other person, for himself or any other or others, any sum of money or valuable thing, shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence, with intent to cheat or defraud such person of the same, and, being convicted thereof, shall be liable to punishment accordingly.

Portion of fine may be paid to informer.

LXV. The Magistrate may direct any portion, not exceeding one-fourth, of any fine which shall be levied under Sections LVI. and LVII. of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under Section LX. to be paid to an informer.

Gambling in the Streets.

LXVI. A Police Officer may apprehend without warrant any person found gaming with cards, dice, counters, money or other instruments of gaming in any public street, place, or thoroughfare, or publicly fighting cocks, or present as a spectator of such cock-fighting; and such person shall be liable to a fine not exceeding twenty Rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month, and such instruments of gaming and money shall be forfeited.

Pawnbrokers and money-changers to report stolen property under a penalty for neglect.

LXVIII. If any property regarding which written or printed information shall be given by any Police Officer to any pawnbroker or dealer in second-hand property or money-changer as having been stolen, embezzled, or fraudulently obtained, shall then be or thereafter come into the possession of or be offered in pawn or for sale or change to such pawnbroker, dealer, or money-changer, he shall, without unnecessary delay, give information to the Commissioner of Police or at the Police Office, that certain property answering the description of the said property was offered to him, or is in his possession, and shall also state the name and address given by the party by whom the same was offered, or from whom the same was received, under a penalty not exceeding Fifty Rupees for each and every such neglect or offence; provided always, that in the case of wearing apparel or other article which it may be difficult for such pawnbroker or dealer to trace out and identify, no fine shall be eligible

in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawnbroker or dealer.

If stolen articles be altered or defaced by Pawnbroker, after information of the theft, he shall be deemed a receiver of stolen goods.

LXIX. If any pawnbroker or dealer in second-hand goods or worker in gold or silver, after receiving information of the theft or the embezzling or the fraudulent disposal of any metals, goods, or articles of whatsoever description, melts, alters, defaces, or puts away the same, or causes the same to be melted, altered, defaced, or put away, without having previously received the permission of the Commissioner of Police, and it shall be found that such metals, goods, or articles were stolen, embezzled, or fraudulently disposed of by the person from whom such pawnbroker, dealer, or worker received the same, or by any other person, then and in such case it shall be held that such pawnbroker, dealer, or worker knew that such metals, goods, or articles were stolen, embezzled, or fraudulently disposed of, and such pawn-broker, dealer, or worker shall be proceeded against according to Law as a receiver of stolen goods or as being a party to the fraud, and punished accordingly; and no other evidence of his guilt shall be necessary than evidence of such melting, altering, defacing, or putting away, after receiving information as aforesaid.

Manufacture or possession of Gunpowder.

LXX. Whoever manufactures Gunpowder, or, without a license from the Commissioner of Police, has in his possession, in any house, shop, warehouse or other building, at any one time a greater quantity of Gunpowder than ten pounds, shall be liable to a fine not exceeding five hundred Rupees, and also to forfeit such Gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Licenses by Commissioner of Police for sale and Deposit of Gunpowder, &c.

LXXI. The Commissioner of Police may grant to any person a license for the sale or keeping in deposit of any quantity of Gunpowder not exceeding fifty pounds, on such conditions, and for such term, not exceeding one year, as shall be specified in the license; and any person who shall be guilty of a breach of any of such conditions, shall, on conviction before a Magistrate, be liable to a fine not exceeding two hundred Rupees, and to

forfeit all Gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also, in the discretion of the Magistrate or of the Commissioner, to forfeit his license.

License for conveying and removing Gunpowder.

LXXII. The Commissioner of Police may grant to any person a license for the transit and carrying of Gunpowder from one place to another, in such manner and in such quantity as he may deem advisable; and any person, not being duly licensed in that behalf, who carries or conveys a greater quantity of Gunpowder than one pound from one place to another, shall be liable to a fine not exceeding fifty Rupees.

Commissioner of Police may issue warrant to search for Gunpowder, &c.

LXXIII. The Commissioner of Police, on credible information laid before him on oath, may issue his warrant authorizing a Police Officer to search, in the day-time, any house, shop, magazine or other building or place in which he has reasonable ground to suspect that any Gunpowder is manufactured, sold or kept, or any boat, carriage, cart or other vehicle in which any Gunpowder may be suspected to be carried, or any person suspected of carrying the same contrary to the provisions of this Act; and all Gunpowder found on such search shall together with the vessels or receptacles in which it may be stored, be immediately seized and kept, pending the judgment of a Magistrate.

Act not to apply to Government powder, &c.

LXXIV. None of the four last preceding Sections shall extend to any Government magazine or store, or building for the making or deposit of Gunpowder under the authority or for the use of the Government, or to any Gunpowder belonging to Her Majesty or the East India Company.

The Regulation of public processions, &c., and of carriages and persons at places of public resort.

LXXVII. The Commissioner of Police, from time to time as occasion may require, may, subject to the orders of the Local Government, make rules for the conduct of all assemblies and processions in the public roads, streets or thoroughfares, prescribing the routes by which, and the times at which, such procession may pass; and for keeping order in the public roads, streets, thoroughfares, ghauts and landing places, and all other places of public resort, and preventing obstructions thereof on the occasion of such assemblies and processions; and in the

neighbourhood of places of worship during the time of public worship; and in any case when the roads, streets, or thoroughfares, ghauts, or landing-places, may be thronged, or may be liable to be obstructed; and may give licenses for the use of music in the streets, on the occasion of native festivals and ceremonies, and every person opposing or not obeying the orders so issued by the Commissioner of Police, or violating the conditions of such license, shall be liable to a fine not exceeding one hundred rupees.

Licenses for use of music in streets.

LXXIX. The Commissioner may refuse to register any boat, or may cancel the registration thereof, whenever it may appear to him to be in an unsafe state.

Commissioner may refuse to register unsafe boats, or, if registered, may cancel the registry.

LXXX. Whenever any accident shall occur to a registered boat attended with loss of the life of any one of the crew or passengers, the manjee, or if the manjee be not forthcoming, the owner of the boat, shall report the circumstances at the Police Office; and if the manjee or the owner, as the case may be, without lawful excuse, neglect or delay to make such report, he shall be liable to a fine not exceeding fifty Rupees.

Penalty for neglecting or delaying to report accident to a registered boat attended with loss of life.

LXXXIII. Whoever destroys, injures, or disturbs any lamp-post, lamp-bracket, or lamp, or extinguishes any light therein, or abstracts or takes away any oil or other matter or thing therefrom, shall be liable to a fine not exceeding twenty Rupees, or, in default thereof, to imprisonment, with or without hard labour, for a term not exceeding fourteen days; and if the lamp-post or bracket or lamp belong to the Municipal Commissioners, the fine, if realised, shall be paid to the Municipal Fund.

Penalty for destroying, &c., lamp-post, &c.

LXXXIV. Whoever wilfully and indecently exposes his person, or commits a nuisance, by easing himself in or by the side of or near to any public street or thoroughfare or place, shall be liable to a fine not exceeding ten Rupees, or, in default thereof, to imprisonment, with or without hard labour, for fourteen days.

Penalty for committing a nuisance in streets.

LXXXV. Whoever, in any public road, street, thoroughfare, or place, begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment,

Beggars.

or deformity, with the object of exciting charity, or of obtaining alms; or whoever seeks for, or obtains alms, by means of any false statement or pretences, shall be liable to imprisonment, with or without hard labour, for any term not exceeding one month.

Police Officer may arrest, without warrant, on view of offence.

LXXXVI. Any Police Officer may arrest, without a warrant, any person committing, in his view, any offence against this Act.

Police Officer may take into custody without warrant persons charged with aggravated assault recently committed.

LXXXVII. Any Police Officer may take into custody, without warrant, any person who is charged with committing an aggravated assault, in every case in which he shall have good reason to believe that such assault has been committed, although not in his view, and that by reason of the recent commission of the offence, a warrant could not have been obtained for the apprehension of the offender.

Apprehension of offenders by private individuals.

LXXXVIII. Whoever commits an offence on or with respect to the person or property of another, or, in committing an offence under this Act, injures or damages the person or property of another, may, if his name and address be unknown, be apprehended by the person injured, or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons, or by any person authorized by or acting in aid of him, and may be detained until he give his name and address and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a Police Officer.

Penalty for assaulting or forcibly resisting a person who apprehends under the preceding Section.

LXXXIX. If any person lawfully apprehended under the last preceding Section shall assault or forcibly resist the person by whom he shall be so apprehended, or any person acting in his aid, he shall be liable to a fine not exceeding 200 Rupees.

Persons taken into custody by a police officer without warrant may be detained in Station House until brought before a Magistrate or bailed.

XC. Every person taken into custody without a warrant by a Police Officer, shall be taken to the Station House, in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into recognizances, with or without sureties, for his appearance before a Magistrate.

Power to take recognizances at the Station House upon certain charges.

XCI. Whenever any person is brought to a Station House charged with any offence against this Act, other than a felony; or whenever a person charged with a felony is in the custody of any Police Officer without a warrant—it shall be lawful for the Officer in charge of such Station House, or any superior Officer of Police, if he shall deem it prudent, and, in the case of felony, if he shall deem it probable that the person is falsely accused, to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

Condition of recognizance.

XCII. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before a Magistrate at his next sitting, and the time and place of appearance, and the sum thereby acknowledged (not exceeding one thousand rupees) shall be specified in the said recognizance, or in the condition thereof; and the Officer taking the recognizance shall enter into a book, to be kept for the purpose, the name residence, and occupation of the party, and his surety or sureties (if any), entering into such recognizance, together with the condition thereof, and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place when and where the party is bound to appear.

On suspicion of goods being stolen or unlawfully obtained, Commissioner of Police or Magistrate may grant search warrant.

XCIII. If information shall be given on oath to the Commissioner of Police, or to a Magistrate, that there is reasonable cause for suspecting that any thing stolen or unlawfully obtained is concealed or lodged in any dwelling-house, building or other place, or any ship or vessel, the Commissioner or the Magistrate, by special warrant under his hand directed to any Police Officer, may cause such dwelling-house, building, or other place, or ship or vessel, to be entered and searched at any time of the day, or by night, if power for that purpose be given by such warrant; and the said Commissioner or Magistrate, if it shall appear to him necessary, may empower such Police Officer, with such assistance as may be found necessary (such Officer having previously made known his authority), to use force for the effecting of such

entry, whether by breaking open doors or otherwise; and if, upon search thereupon made, such thing shall be found, then to convey the same before a Magistrate, or to guard the same on the spot until the offenders are taken before a Magistrate, or otherwise dispose thereof in some place of safety; and moreover to take into custody, and carry before the said Magistrate, every person found in such house or place, or ship, or vessel, who shall appear to have been privy to the deposit of any such thing, knowing or having reasonable cause to suspect the same to have been stolen, or otherwise unlawfully obtained.

Power to search houses for stolen property without a warrant in certain cases.

XCIV. If information shall be given to any Officer of Police not below the rank of Inspector, that there is reasonable cause for suspecting that any stolen property is concealed or lodged in any dwelling-house or other place, and he shall have good grounds for believing that, by reason of the delay in obtaining a search warrant, the property is likely to be removed, the said officer, in virtue of his office, may search for specific articles alleged to have been stolen in the houses and places specified; provided always, that a list of the articles stolen or missing be delivered or taken down in writing, with a declaration stating that the robbery has been committed, and that the informant has good ground to believe that the property is deposited in such house or place; and provided further, that the person who lost the goods or his representative, accompany the Officer in the search.

Magistrate may proceed by summons, and if party does not appear, may issue warrant.

XCV. Upon any information or complaint, which need not be upon oath, laid or made before a Magistrate of Police, of any matter which such Magistrate is by Law authorized to hear and determine summarily he may summon the person charged to appear at a time and place to be mentioned in the summons; and if such person shall not appear according to the tenor of the summons, the Magistrate, upon proof of the service of the summons, may proceed, in all cases which are not of a criminal nature, if no sufficient cause shall be shown for the non-appearance of the person charged, to hear and determine the case in his absence; or in such cases, and

In cases not of a criminal nature, Magistrate may proceed in the absence of the person summoned.

in all criminal cases, may, if he think fit, upon oath being made before him substantiating the matter of such information or complaint to his satisfaction, issue his warrant for apprehending and bringing the person charged before him or some other Magistrate, in order that the said information or complaint may be heard and determined. Provided always that the prosecution for any offence not of a criminal nature, punishable upon summary conviction by virtue of this Act, shall be commenced within three months after the commission of the offence, and not otherwise.

Prosecution for such offences to be commenced within three months.

XCVI. Every such summons shall be served by delivering the original or a copy thereof to the person charged, or by leaving the same at his usual place of abode with some adult male member or servant of his family.

How a Summons may be served.

XCVII. A Magistrate may, without issuing any summons, forthwith issue his warrant for the apprehension of any person charged with any offence cognizable before him, whenever good grounds for so doing shall be stated on oath before him.

Magistrate may issue warrant without summons when grounds for doing so are stated on oath.

XCVIII. A Magistrate may summon any person within his jurisdiction to appear before him, at a time and place appointed, as a witness in any matter cognizable by the Magistrate, and to bring with him any document or thing that may be required relating to any offence with which any person is charged before him; and may administer to such person an oath to testify the truth in such matter. If any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, the Magistrate may (after proof upon oath of the summons having been served upon such person, either personally or by leaving the same at his usual place of abode with some adult male member or servant of his family) issue a warrant to bring such person before him to testify as aforesaid. If, on the appearance of the person summoned, either in obedience to the summons or by virtue of a warrant, he shall refuse to be examined upon oath, or to answer all such

Magistrate may enforce attendence of witnesses.

And administer oath.

Punishment of witness refusing to answer.

questions as shall be put to him; or to produce any such document or thing, without offering a good excuse for such refusal, he shall be liable to a fine not exceeding fifty Rupees, or the Magistrate may commit such person to prison, there to remain for any time not exceeding one month, unless he shall sooner submit himself to be sworn or examined, or to produce the document or thing required.

Perjury.

C. Whoever commits perjury in any judicial proceeding before a Magistrate, may be committed by such Magistrate for trial before Her Majesty's Supreme Court of Judicature.

Power to Magistrates to adjourn the hearing of cases and commit defendant, or suffer him to go at large, or discharge him upon his own recognizance.

CI. The Magistrate may, from time to time, adjourn the hearing of any information or complaint to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties, or their respective counsel, attorneys, or agents then present, and in the meantime the said Magistrate may suffer the defendant to go at large, or may discharge him upon his entering into a recognizance, with or without surety or sureties, conditioned for his appearance at the time and place to which such hearing or further hearing shall be adjourned; and, in default of such recognizance, or if the offence with which such person is charged is not bailable offence, may detain him in custody; and if, at the time or place to which such hearing or further hearing shall be so adjourned, either or both of the parties shall not appear personally, or by his or their counsel, attorneys, or agents repectively, before the said Magistrate, or such other Magistrate as shall then be there, it shall be lawful for the Magistrate then there present to proceed, in cases which are not of a criminal nature, to such hearing or further hearing, as if such party or parties were present; and in all cases where the prosecutor or complainant shall not so appear, the said Magistrate may dismiss such information or complaint with or without costs, as to such Magistrate shall seem fit.

In cases not of a criminal nature, Magistrate may proceed with the further hearing in the absence of parties.

In all cases, if prosecutor fails to appear complaint may be dismissed.

CII. It shall be lawful for any Magistrate, who shall hear

Power to award costs on hearing of information or complaint.

and determine any information or complaint, to award such costs as to him shall seem meet, to be paid to or by either of the parties to the said charge or complaint; and such costs shall be recoverable in the manner hereinafter provided for levying fines.

Amends may be awarded for charges made on insufficient grounds.

CIII. In every case in which any person shall be given in charge to a Police Officer, or in which any information or complaint of any offence, shall be laid or made before any Magistrate, and shall not be further prosecuted, or in which, if further prosecuted, it shall appear to the Magistrate by whom the case shall be heard that there was no sufficient ground for making the charge, the Magistrate shall have power to award such amends, not exceeding fifty Rupees, to be paid by the informer or complainant to the party informed or complained against, for his loss of time and expenses in the matter, as to the Magistrate shall seem meet. Such amends shall be recoverable in the manner hereinafter provided for levying fines.

Compromise.

CIV. It shall be lawful for any person to compromise any of the offences specified in this Act, not being felonies, after complaint thereof has been made; provided that the offence is of such a nature as the injured party might have sued and recovered damages for in an action at law.

Distress not unlawful for want of form, &c.

CVI. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab nitio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

If Magistrate certifies the non-appearance of a person pursuant to his recognizance, the sum acknowledged may be recovered as a fine.

CVII. If any person, upon entering upon such recognizance as is by this Act authorized to be taken, do not afterwards appear pursuant to such recognizance, the Magistrate before whom he ought to have appeared shall certify the fact of such non-appearance on the back of the recognizance, and thereupon

the sum thereby acknowledged shall be recoverable in the manner provided by this Act for levying fines.

Recognizances for keeping the peace or for good behaviour.

CVIII. *Clause* 1.—Every Magistrate of Police shall have the same authority to require persons to enter into recognizances to keep the peace or to be of good behaviour as may lawfully be exercised by a Justice of the Peace.

If such recognizance do not exceed 200 Rs., the amount, upon conviction, if forfeited, may be recovered as a fine.

Clause 2.—If any person who has entered into a recognizance in any amount not exceeding Rupees 200, to keep the peace or to be of good behaviour, before any Magistrate of Police or any Justice of the Peace, by any act, forfeits such recognizance, the Magistrate or other authority before whom he may be convicted of any act by which such recognizance is forfeited, shall, when applied to, certify any such conviction on the back of such recognizance, and thereupon the sum thereby acknowledged to be due by such person shall be recoverable in the manner provided in this Act for levying fines.

Proceeding against sureties.

Clause 3.—Whenever it shall be shown to the satisfaction of a Magistrate of Police, either by the production of such certificate of conviction as is mentioned in the preceding Clause, or otherwise, that any such recognizance is forfeited, the Magistrate, if he think that proceedings should be had against the sureties, shall give notice to them to pay the sums which by their recognizances they have respectively acknowledged themselves to owe, or to show cause, on a day to be named in such notice, why the said sums should not be paid; and if no sufficient cause shall be shown, the said sums shall be recoverable in the manner provided by this Act for levying fines.

Powers of Court of Petty Sessions at Bombay as to the issue of summons and other process.

CIX. All powers and authorities conferred on a Magistrate of Police by this Act, relating to the issue of summonses and other process, to enforce the attendance of prosecutors, defendants, and witnesses, and to the issue of warrants of distress and commitment, shall be exercised by the Court of Petty Sessions at Bombay, and all summonses to parties to appear before that Court may issue under the signature of any Magistrate or of the Clerk of the Court.

Form of judgment

CX. Any Magistrate, in cases adjudged summarily under the provisions of Sections XXVII., XXVIII., XXIX. and XXX. of this Act, shall cause the judgment to be drawn in the form (B) hereinafter provided, or to the like effect.

Conviction to be quashed on merits only. Form of conviction, &c.

CXI. No conviction, order, or judgment of any Magistrate, or in Bombay of the Court of Petty Sessions, shall be quashed for error of form or procedure, but only on the merits: and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*; and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Moveable property of persons dying intestate under two hundred Rupees in value may be taken charge of by Police, and delivered to party claiming to be entitled thereto.

CXIII. Whenever any person dies intestate within any of the said Towns or Stations leaving moveable property therein under two hundred Rupees in value, which property is, in the absence of any person entitled thereto, taken charge of by the Police for the purpose of safe custody, it shall be lawful for the Commissioner of Police to order the said property to be delivered, without letters of administration taken out, to any person claiming to be entitled to the whole or any part thereof; provided he shall be satisfied of the title of claimant, and of the value of the property, by the oath or affirmation of the claimant, or by such other evidence as he may require.

Commissioner of Police may take security for due administration and distribution of such property.

CXIV. The Commissioner of Police may, at his discretion, before making any order under the preceding Section, take such security as he may think proper for the due administration and distribution of such property. And nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order.

Saving of right of other person claiming.

Stray dogs to be killed at certain appointed periods.

CXVI. It shall be lawful for the Commissioner of Police, by order in writing to be affixed at the principal Police Stations, and also to be published in some public newspaper, to appoint from time to time certain periods within which any dogs found straying in the streets or beyond the enclosures of the houses of the owners of such dogs, may be destroyed.

Foreign Deserters.

CXVII. Any Magistrate, upon an application being made to him by the Consul of any Foreign Power to which the Foreign Deserters' Act (1852) has by an order of Her Majesty in Council been, or shall hereafter be, declared to be applicable, and upon complaint on oath of the desertion of any seaman, not being a slave, from any ship of such Foreign Power, may, until a revocation of such Order in Council shall have been publicly notified, issue his warrant for the apprehension of any such Deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the Consul, to be detained in custody till the vessel is ready to sail, on deposit being first made of such sum as the Magistrate shall deem necessary for the subsistence of the Deserter during such detention; provided that the detention of such deserter shall not be continued beyond twelve weeks.

Commencement of Act.

CXVIII. This Act shall commence and take effect from and after the 1st of November, 1856.

SCHEDULE.

LAWS REPEALED.

So much of Section CLIX. of the Statute 33, George III., Chapter 52, as relates to the sale of Arrack or other spirituous liquors, and to the punishment of unlicensed traders in spirits or spirituous liquors as is now in force in any of the Towns or Factories therein mentioned.

Act No. XXII. of 1840, entitled "An Act for the punishment of Vagrants within the Towns of Calcutta and Madras and the Islands of Bombay and Colaba extorting alms by offensive and disgusting exhibitions and practices."

Calcutta.

Act No. XXI. of 1839, entitled "An Act for the trial of prisoners charged with the commission of certain petty offences in the Town of Calcutta on the River Hooghly."

Act No. III. of 1842, entitled "An Act for extending the provisions of Act XXI. of 1839, to certain petty thefts, not being cases of simple larceny."

Section XII. of Act XI. of 1849, entitled "An Act for securing the Abkaree Revenue of Calcutta."

Act No. XIII. of 1852, entitled "An Act for consolidating and amending the Regulations of the Calcutta Police."

Madras.

A Rule, Ordinance and Regulation called "A Regulation for establishing an efficient system of Police."

A Rule, Ordinance and Regulation called "A Regulation for apprehending and punishing idle and disorderly persons."

A Rule, Ordinance and Regulation called "A Regulation for the prevention and punishment of dishonest practices, of the misconduct of servants, and of affrays and other misdemeanours."

A Rule, Ordinance and Regulation called "A Regulation for granting Licenses to Venders of Spirituous and other Intoxicating Liquors."

A Rule, Ordinance and Regulation called "A Regulation for registering and controlling Gold and Silver-smiths, Shroffs, Hawkers, China Bazaar-men, Shop-keepers, Second-hand Dealers, Shipping Dubashes, Head Cooly-men, Head Bandy-men, Head Carpenters, Smiths, Bricklayers, Tailors and all Headmen or Mistress in every other trade or occupation."

A Rule, Ordinance and Regulation called "A Regulation for Markets."

A Rule, Ordinance and Regulation called "A Regulation for rating the wages of Coolies, Artificers and Workmen of every description."

A Rule, Ordinance and Regulation called "A Regulation for punishing the offences of Boatmen."

A Rule, Ordinance, and Regulation called "A Regulation for preventing accidents from the negligence of the persons in charge of Horses, Carriages, Carts, or other conveyances."

Act No. VIII. of 1849, entitled "An Act for assimilating the penal jurisdiction of Police Magistrates at Madras to that of Justices of the Peace of Calcutta."

Sections III. and V. of Act XXII. of 1837.

Section XII. of Act No. XIX. of 1852, entitled "An Act for securing the Abkaree Revenue of Madras."

Bombay.

Rule, Ordinance, and Regulation II., 1812, called "A Rule, Ordinance, and Regulation for vesting a control in the sale of Arrack or other Spirituous Liquors beyond the limits of the Town of Bombay, and on the Island generally, in His Majesty's Justices of the Peace."

Rule, Ordinance and Regulation I., 1813, called "A Rule, Ordinance and Regulation for compelling those who are able to support their infant relations; and for subjecting the numerous aliens who pass over to the Island of Bombay from the Marhatta Territories, to certain restrictions."

Rule, Ordinance and Regulation II., 1813, called "A Rule, Ordinance and Regulation to diminish the number of Pariar Dogs having no owners, on the Island of Bombay, and to authorize the erection of public pounds for animals straying or trespassing on the public streets or roads of the Island, or on the grounds of the inhabitants thereof."

Rule, Ordinance and Regulation I., 1814, called "Rule, Ordinance and Regulation for vesting any two of His Majesty's Justices of the Peace with power to decide on all disputes arising between Masters and Mistresses, and any of their household servants, Hamauls or Planqueen bearers, and for empowering either of the Magistrates of Police to decide summarily on acts of miscarriage and ill-behaviour requiring moderate though immediate correction."

Rule, Ordinance, and Regulation I., 1815, called "A Rule, Ordinance, and Regulation for vesting in His Majesty's Justices of the Peace a general control over the sale of Toddy and all other fermented or intoxicating Liquors throughout the Island of Bombay."

Rule, Ordinance, and Regulation I., 1818, called "A Rule, Ordinance, and Regulation to repeal Rule, Ordinance, and Re-

gulation II.. 1815, and to make more effectual provisions for widening the wheels of Carts, Hackeries, and other native conveyances."

So much of Rule, Ordinance, and Regulation I, 1820, called "A Rule, Ordinance, and Regulation for establishing an effective control over the Shipping resorting to the Port of Bombay, for preventing the desertion of the Crew of Ships, the European Soldiers of the Garrison offering themselves as seamen, and for the better security of the Harbour and Dockyard of Bombay," as is now in force.

So much of Rule, Ordinance, and Regulation I., 1821, called "A Rule, Ordinance, and Regulation for modifying the provisions of Rule, Ordinance, and Regulation I., of 1820, relating to Ballast for Ships," as is now in force.

So much of Rule, Ordinance, and Regulation II., 1827, called "A Rule, Ordinance, and Regulation for better defining and extending the Powers and Jurisdiction of the Court of Petty Sessions, and of Magistrates of the Police; and for amending and consolidating into one Rule, Ordinance, and Regulation, sundry provisions relating to such Powers and Jurisdiction," as is now in force.

Rule, Ordinance, and Regulation I. 1834, called "Rule, Ordinance, and Regulation for repealing Titles 1st, 2nd, and 3rd of Rule, Ordinance, and Regulation II. of 1827," except Articles I., II, V., VI., VII., and VIII. of Title II. (relating to the Constitution of the Court of Petty Sessions), so far as they are now in force.

So much of Act No. VII. of 1836, as relates to any Law hereby repealed.

Act No. XVIII. of 1840, entitled "An Act to regulate the granting and withholding licenses for the sale of Liquors within the Islands of Bombay and Colaba."

Act No. III. of 1841, entitled "An Act for the trial of Prisoners charged with the commission of certain offences within the Islands of Bombay and Colaba, and the Harbour of Bombay."

Act No. IX. of 1851, entitled "An Act for the prevention of Gambling in Bombay."

20. Displacing pavement, fences, &c., without license; penalty, fine to fifty rupees.

21. Course to be adopted where private person desires to lay out new street. Penalty for disobedience of Commissioners' directions; fine to five hundred rupees.

22. Huts not to be erected where no previous building, except as directed by Commissioners. Specific directions.

23. Course to be taken where block of huts such as to encourage disease in the neighbourhood.

24. Commissioners' powers with respect to paving, channelling, sewering.

25. How and when private street may be declared public.

26. Commissioners may license building on public street to be brought forward.

27. And may order building to be put back, subject to compensation to owner.

28. Commissioners may put up names of streets. Defacing, &c., names; penalty, fine twenty rupees.

29. Ditto as to numbers of houses.

30, 31. As to doors and ground-floor windows.

32. Commissioners may direct pipes, &c., for carrying off water from roofs to be erected; penalty for disobedience, fine to ten rupees daily.

33. Commissioners may direct removal of projections, &c.; penalty for disobedience, fine to two hundred rupees. Specific directions.

34. Commissioners may themselves remove or alter such projections, subject to compensation to owner.

35. Commissioners may sanction balconies, &c., in cases specified.

36. Prohibition to having roofs or walls of inflammable materials; penalty fine to ten rupees, daily.

37. As to ruinous and dangerous buildings.

38. As to expense of pulling down ruinous buildings, and sale of materials.

39. As to deserted land or houses which have become a nuisance.

40. Keeping filth, &c., about a house; penalty, fine to fifty rupees.

41. Permitting house to be in a filthy or unwholesome state; fine to fifty rupees, and for continuance, five rupees daily.

42. Commissioners may direct trimming of hedges and trees on road or street: and in default may do it themselves at expense of owners.

43. Keeping pigs near a street, or (without Commissioners' permission) more than twenty sheep or goats or more than ten horned cattle: penalty, fine to fifty rupees.

44. Sewers, drains, culverts, &c., vested in Commissioners.

45. Commissioners to make necessary sewers and drains, and may carry through private lands, giving compensation.

46. Commissioners to maintain, and, when they see fit, alter sewers and drains or discontinue them. Provided discontinuance do not cause nuisance. If private persons deprived of use of sewer or drain, another to be substituted.

47. As to cleansing and emptying sewers and drains.

48. Commissioners may alter bed of river or stream into which sewer or drain discharged, to prevent stagnation and annoyance.

49. Making, without license of Commissioners, drain into public sewer or drain; penalty, fine to one hundred rupees. Commissioners may destroy it at offender's expense.

50. Building not to be erected over sewer or drain without Commissioner's consent. Any such may be pulled down at offender's expense.

51. Course to be pursued where house not properly drained.

52. No building (for the future) upon a level that will not allow of drainage into place for discharge of drains.

53. Course to be taken when a new building has means of drainage within one hundred feet distance.

54. Notice of intended building must be given to Commissioners, with plan.

55. Upon which, Commissioners, within fourteen days, to issue directions.

56. If notice not sent or Commissioners' directions not attended to, they may demolish or alter building at owner's expense.

57. If Commissioners give no direction or approval within fourteen days, building (if otherwise in conformity with this Act) may be proceeded with.

58. Sewers and drains to be covered and ventilated. Where private Commissioners may compel.

59. And may erect pipes in any building for that purpose, under certain conditions.

60. Throwing dirt, &c., into public sewer or drain; penalty, fine to fifty rupees.

61. Public necessaries and urinals may be erected.

62. Commissioners may license such. Erecting without license, or keeping one licensed in filthy state; penalty, fine to fifty rupees.

63. Private privy must be shut out from view.

64. Control of Commissioners over all branch-drains, privies and cesspools.

65. Constructing such contrary to or without directions of Commissioners; penalty, fine to fifty rupees.

66. Powers for Commissioners and their officers to inspect such drains, &c.

67. How notices to be served.

68. Whenever owner or occupier required by this Act to execute work and he neglect to do so, Commissioners may execute the work at his expense.

69. For which expense, Commissioner may distrain goods and chattels of occupier, who may deduct the sum recovered from his rent.

70. Occupier not to be liable for more than amount of his rent, except in cases specified.

71. If owner of land neglect to execute required work, occupier may do it, and deduct from rent or charge to owner.

72. Occupier hindering execution of work by owner; penalty, fine to fifty rupees daily.

73. Public tanks, reservoirs, and other water works, together with buildings, &c., connected therewith, vested in Commissioners.

74. Preservation and erection of public tanks, &c.

75. Supply of water for cases of fire to be maintained.

76. Improperly using or defiling tank, &c., of Commissioners ; penalty, fine to fifty rupees.

77. Proprietor of gas works or other offensive manufacture causing tank, &c., of Commissioners to be fouled ; penalty, fine to one thousand rupees, and further daily fine of five hundred rupees after 24 hours' notice. Commissioners may examine works, costs contingent on result.

78. Injuring or diverting water works ; penalty, fine to one hundred rupees.

79. Commissioners may set apart bathing ghauts and places.

80. Commissioners may make bye-laws as to supply and use of water, and to regulate times and places of bathing.

81. Commissioners may direct private tank and marsh to be filled up or drained ; and, on neglect, do it at owner's expense.

82. When and how Commissioners to cleanse or fill up pond of stagnant water.

83. If Commissioners destroy ways, water-courses, &c., must construct others.

84. As to breaking or opening surface of street.

85. Commissioners may require situation of water pipes or gas pipes to be changed, at their own expense, and paying compensation for damage.

86. If their requisition not attended to, may do it themselves.

87. Obstructing streets by repairs without license, penalty, fine to fifty rupees, and further daily fine, after 24 hours' notice, of fifty rupees.

88. Precautions to be taken by Commissioners when streets being repaired, drains constructed, &c.

89. Making a hole in street without license or without taking specified precautions ; penalty, fine to fifty rupees, and further penalty daily of fifty rupees, after 24 hours' notice.

90. Course to be taken when building tank, well, hole, or other place dangerous.

91. Within limits, to be assigned by Government, slaughter houses to be registered ; penalty for disobedience, daily fine to fifty rupees.

92. If slaughter house a nuisance, to be discontinued after one month's notice from Commissioners ; penalty for disobedience; fine daily to fifty rupees. Commissioners to make compensation for damage to owner or occupier.

93. No new slaughter house, within the limits, without license from Commissioners ; penalty for disobedience, fine to one hundred rupees, and further daily fine to fifty rupees.

94. Commissioners may, with consent of Government, assign places for slaughter, and make bye-laws for them.

95. Regulation for keeping shops for sale of meat, &c., and slaughter houses in wholesome state. Penalty for infringement after notice, penalty to fifty rupees daily.

96. Commissioners to make bye-laws for inspection of markets and slaughter houses.

97. Keeping in place for sale of meat, flesh, vegetables, &c, unfit for food; penalty, fine to one hundred rupees.

98. Offering for sale, knowingly, noxious food or drink; penalty, fine to three hundred rupees. Search warrant may be granted.

99. Commissioners may enter market or shop to inspect meat, &c. Magistrate to order unfit food to be destroyed, and fine offender to one hundred rupees.

100. Further power of Magistrate with respect to offenders' licenses.

101. Using slaughter house during revocation or suspension of license; penalty, fine to fifty rupees daily.

102. Places used for melting tallow—boiling offal or blood—as a soap-house—oil-burning house—dyeing house—tannery—brick, pottery or lime kiln—sago manufactory—other manufactory or place of business from which offensive or unwholesome smells—as yard or depôt for hay, straw, wood, coal—to be registered; penalty for infringement, after notice, fine to fifty rupees daily.

103. New places not to be used for purposes described in last section without license: in default, penalty, fine to five hundred rupees, and after conviction, further fine to fifty rupees daily.

104. Commissioners may make bye-laws for inspection of places referred to in two last sections.

105. Regulation as to burial and burning grounds. Burying or burning in other than registered ground; penalty, fine to one hundred rupees.

106. No vault or grave to be within any church or chapel built after passing of this Act. Further regulation as to burial and burning ground. Penalty for infringement, fine to five hundred rupees.

107. Proceeding for closing or changing burial or burning places, viz., by certificate of Commissioners. Penalty for infringement, fine to two hundred rupees.

108. Nevertheless, Commissioners may, in specified cases, grant license for use of ground contrary to terms of certificate in last section.

109. Commissioners may provide fitting places for burial and burning grounds.

110. Commissioners may make bye-laws for regulation and good order of burial and burning grounds.

111. Commissioners to register to particulars of name, age, &c., in case of all deaths.

112. General powers of entry to Commissioners for purposes of this Act with 24 hours' notice to occupier.

113. Mode in which Commissioners are to exercise their powers of entry upon and using land for works.

114. Obstructing Commissioners in carrying out this Act; penalty, fine to fifty rupees or imprisonment not exceeding three months.

115. Powers of Commissioners and Magistrates for construction of aqueducts and sewers.

116. General powers to make bye-laws; penalty for infringement, fine to twenty rupees, and further penalty after notice of ten rupees daily.

117. Bye-laws to be sanctioned by Local Government.

118. To be published in "Gazette" or Newspapers for one month, and open to inspection at the office.

119. Bye-laws, how to be published when confirmed.

120. Courts and Magistrates to take judicial notice of them.

121. They are to be transmitted to clerk of Legislative Council.

122. Abstract of offences and penalties to be published in manner directed.

123. Commissioners may enter into contracts.

124. And may direct prosecutions and pay expenses thereof.

125. This Act not to sanction what would otherwise be a nuisance; but payment of penalties adjudged under this Act a bar to other criminal proceeding.

126. As to proceeding against Commissioners: notice, and tender of amends.

127. Power to Commissioners to give compensation.

128. How land may be compulsorily obtained for purposes of this Act.

129. Commissioners may sell land vested in them, with consent of local Government, and may convey.

130. When road discontinued under sec. 6, Commissioners may sell.

131. Commissioners may charge fees for licenses and rent for ground in cases and manner specified.

132. How damages, costs, or expenses to be adjudged.

133. Mode of proceeding before Magistrate under this Act.

134. Damages, costs and expenses to be recovered by warrant of distress and sale of goods.

135. Or by suit.

136. Defects of form not to vitiate distress, but irregularity may be subject f suit.

137. Fines and penalties to be recovered summarily.

138. Half fine may be awarded to informer.

139. Three months' limitation for complaint of offences under this Act.

140. Offender to make good damage to property of Commissioners, as well as pay penalty; recoverable summarily.

141. Police officers to inform of offences, and may arrest and detain offender until name and address ascertained.

142. Act to commence 1st November, 1856.

An Act for the Conservancy and Improvement of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.*

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* Act 26, 1856, is an Act for appointing Municipal Commissioners, and for levying rates and taxes in the Town of Madras.

Act 25, 1858, is an Act for similar purposes for Bombay.

Preamble.

Whereas it is expedient to make better provision for the Conservancy and Improvement of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca, and to invest the Municipal Commissioners for each of the said Towns and Stations with the powers hereinafter mentioned, it is enacted as follows:

Acts, &c., repealed.

I. The several Acts, and Rules, Ordinances and Regulations, mentioned in the Schedule hereunto annexed, are hereby repealed, except so far as they repeal the whole or any part of any other Act, or Rule, Ordinance and Regulation, and except as to any act or offence which shall have been done or committed, or to any money which shall have become due, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced, before this Act shall come into operation.

Interpretation.

II. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say):

"Local Government."

The expression "Local Government" shall mean the person or persons for the time being immediately administering the Executive Government of that portion of the Territories in the possession and under the Government of the East India Company in which the Town or Station is situated.

"The Municipal Commissioners." "The Commissioners."

The expressions "The Municipal Commissioners" and "The Commissioners" shall mean the persons, however designated, for the time being constituted by Law to administer the funds applicable to the purposes of conservancy and improvement in the Town or Station for which they are so constituted.

"Town."

The word "Town" shall include all places within the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature at Calcutta, Madras, and Bombay.

"Station."

The word "Station" shall mean any one of the Stations of Prince of Wales' Island, Singapore, and Malacca, and the dependencies thereof.

The word "Street" shall mean any road, street, square, court, alley, or passage, whether a thoroughfare or not, over which the public have a right of way, and also the roadway over any public bridge or causeway within such parts of the said Towns and Stations as shall be from time to time specially defined by the Commissioners with the sanction of the Local Government; and the expression "in or near any street" shall designate any place within such defined parts of the said Towns and Stations.

"Street."

"In or near any street."

The word "Road" shall mean any road, or thoroughfare, over which the public have a right of way, or any roadway over any public bridge or causeway, not being within the parts so specially defined.

"Road."

The word "Land" shall include messuages, buildings, tenements and hereditaments of any tenure.

"Land."

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

"Number."

Gender.

Words importing the masculine gender shall include females.

"Person."

The word "person" shall include a corporation.

"Month."

The word "month" shall mean calendar month.

"Oath."

The word "oath" shall include any affirmation or declaration lawfully substituted for an oath.

"Magistrate."

The word "Magistrate" shall mean any Magistrate of Police acting for the Town or Station where the matter requiring the cognizance of a magistrate arises.

"Owner."

The word "Owner" shall mean the person for the time being receiving the rent of the land or premises in connexion with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such land and premises were let to a tenant. Provided that no person receiving the rent of land or premises as agent for another person shall be liable

to do any thing by this Act required to be done by the owner of such land or premises unless he have sufficient funds of the owner to pay for the same, nor shall he be subject to any penalty for omitting to do such act, if he can prove that the default was occasioned by reason of his not having funds of the owner sufficient to defray the expense of doing the act required.

Commissioners to appoint Officers.

III. The Municipal Commissioners may from time to time appoint all such officers as they shall think necessary and proper to assist in the execution of this Act; and may from time to time remove any of such Officers and appoint others in their place; and may out of the funds applicable to the purposes of this Act, with the sanction of the Local Government, pay such salaries to the said Officers respectively as the Commissioners shall think reasonable. Provided that no person shall be appointed to, or removed from any office, the monthly salary of which exceeds two hundred Rupees, without the sanction of the Local Government.

Property vested in Commissioners.

IV. All property, moveable, and immoveable, purchased or otherwise acquired before the passing of this Act by the Commissioners or other persons, however designated, heretofore lawfully administering the funds applicable to the Conservancy and Improvement of the said Towns and Stations respectively, and now vested in them or in any persons in trust for them for any such purposes, shall, after the passing of this Act, be vested in the Municipal Commissioners for the said Towns and Stations respectively as trustees for the purposes of this Act.

Streets and roads vested in the Commissioners.

V. All public streets and roads (not being the property of the East India Company and kept under the control of the Local Government), existing at the time of the passing of this Act, or which shall afterwards be made, and the pavements, stones, and other materials thereof, and also all erections, materials, implements, and other things provided for such streets and roads, shall be vested in and belong to the Commissioners.

Power to make and improve streets and roads.

VI. The Commissioners, with the consent of the Local Government, may lay out and make new streets and roads, and may build and construct bridges and tunnels; and may turn, divert, discontinue, or stop

up, any public street or road; and may widen, open, enlarge, or otherwise improve, any such street or road; making due compensation to the owners and occupiers of any land, houses, or buildings which may be required for any such purposes.

Power to take land adjoining new streets for building purposes.

VII. In laying out new streets, in addition to the land required for the carriage-ways and foot-ways thereof, the Commissioners, with the consent of the Local Government, may purchase also the land necessary for the houses and buildings to form the said street, and may sell and dispose of the same with such stipulations and conditions as to the class and description of houses or buildings to be erected thereon as they shall think fit. Provided that if any land be taken under the provisions of this Act, compensation shall be made to the owners for any damage which may be done thereby to any adjoining land or buildings of such owner.

Compensation for damage to adjoining land.

Power to agree for purchase of land for improving streets or roads.

VIII. The Commissioners may agree with the owners of any land for the absolute purchase thereof for the purpose of laying out and making new streets and roads, or of widening, enlarging, or otherwise improving any of the public streets or roads.

Maintenance and repair of streets and roads.

XI. The Commissioners shall, so far as the funds at their disposal will admit, from time to time, cause the public streets and roads to be maintained and repaired; and from time to time may cause the same to be paved, metalled, flagged, channelled, sewered, or otherwise improved, and the surface thereof to be raised, lowered, or altered, as they may think fit; and may also make and keep in repair any footways for the use of passengers in any such street, or road, and also from time to time place on the sides of such footways or otherwise such fences and posts as may be needed for the protection of foot passengers.

Footways.

Cleansing streets.

X. The Commissioners shall cause the streets, including the footways thereof, from time to time to be properly swept and cleansed; and the dust, dirt, ashes, rubbish, and filth of every sort found thereon, to be collected and removed.

XI. The Commissioners may cause any number of moveable

Dust-boxes in streets.

or fixed dust-boxes or other convenient receptacles, wherein dust, dirt, ashes, and rubbish may be temporarily deposited, until removed and carried away, to be provided and placed in proper and convenient situations, and may require the occupiers of houses in streets to cause all such matters as aforesaid to be deposited daily or otherwise periodically in the said receptacles; and every person who, after such receptacles have been provided, and after such requisition as above mentioned, shall deposit, or cause or permit to be deposited, any such matter in any street, except in such receptacles, shall be liable to a penalty not exceeding ten Rupees.

Depositing dirt on streets, &c.

XII. Whoever deposits, or permits his servants to deposit, any dust, dirt, dung, ashes, garden kitchen, or stable refuse, or filth of any kind, or any animal matter, or any broken glass, or earthenware or other rubbish, in any street, or on any public quay, jetty, ghaut, or landing-place, or on any part of a river-bank, or of the sea-shore, whether above or below high-water mark, except in such places and in such manner, and at such hours as shall be fixed by the Commissioners, shall be liable to a penalty not exceeding ten Rupees.

Allowing sewerage to flow on streets.

XIII. Whoever causes or allows the water of any sink or sewer, or any other offensive liquid matter belonging to him or being on his land, to run, drain, or be thrown or put upon any street, or causes or allows any offensive matter from any sewer or privy to run, drain, or be thrown into a surface drain in any street, shall be liable to a penalty not exceeding ten Rupees.

Removal of night-soil.

XIV. The Commissioners from time to time may fix the hours within which only it shall be lawful to remove any night-soil or other such offensive matter; and when the Commissioners have fixed such hours and given public notice thereof, whoever removes or causes to be removed along any street any such offensive matter at any time, except within the hours so fixed, and also whoever at any time, whether such hours have been fixed by the Commissioners or not, uses for any such purpose any cart, carriage or other receptacle or vessel not having a covering proper for preventing

the escape of the contents thereof or of the stench therefrom, or who slops or spills any such offensive matter in the removal thereof, or who does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or who places or sets down in any public place any vessel containing such offensive matter, or who drives or takes or causes to be driven or taken any cart, carriage, receptacle or vessel used for any such purpose as aforesaid, through any street or by any route other than such as shall from time to time be appointed for that purpose by the Commissioners by public notice, shall be liable to a penalty not exceeding Twenty Rupees.

Places of Deposit for filth.

XV. The Commissioners from time to time shall provide places convenient for the deposit of the night-soil, dung and other filth, and the dust, dirt, ashes and rubbish collected and removed under the authority of this Act; and for keeping all cattle, carts, implements and other things required for the above or any of the purposes of this Act, and for any of such purposes, the Commissioners may purchase or take on lease any land or buildings by them considered necessary, or may cause any new building to be made upon any land to be purchased or hired by them.

All rubbish, &c., collected to be the property of the Commissioners.

XVI. All dirt, dust, ashes, rubbish, sewerage, soil, dung and filth, collected from the streets, houses, privies, sewers, and cesspools, shall be the property of the Commissioners, who shall have power to sell or dispose of the same as they may think proper, and the money arising from the sale thereof shall be applied to the purposes of this Act.

Watering Streets.

XVII. The Commissioners, so far as the funds at their disposal will admit, and so far as they may deem requisite for the public convenience, shall cause the public streets and roads to be watered; and for that purpose may provide such works and engines as they may think necessary.

Lighting Streets.

XVIII. The Commissioners, so far as the funds at their disposal will admit, shall provide lamps, lamp-posts and such other means as they may deem necessary for lighting such of the public streets and roads as they shall consider to require lighting; and shall cause the said

lamps to be kept in fit order, and shall employ a sufficient number of persons to cleanse, prepare and light the same; and shall also from time to time increase or otherwise alter the number and situation of the said lamps, as to them shall appear necessary.

Future obstructions in streets or roads.

XIX. Whoever builds any wall, or erects or sets up any fence, rail, post or other obstruction or encroachment, in any public street or road, or in or over any open drain, sewer, or aqueduct along the side of any such street or road, after the passing of this Act, shall be liable to penalty not exceeding one hundred Rupees; and the Commissioners shall have power to remove any such obstruction or encroachment; and the expense of such removal shall be paid by the person erecting the same, and shall be recoverable as hereinafter provided. Nothing herein contained shall prevent the Commissioners, with the concurrence of the Commissioner of Police, from allowing any temporary erections in any public street or road on occasions of festivals and ceremonies.

Power to remove.

Temporary obstructions on occasions of Festivals, &c.

Taking up pavements.

XX. Whoever displaces, takes up, or makes any alteration in the pavement, flags, or other materials, or in the fences or posts of any public street, without the consent in writing of the Commissioners, or without other lawful authority, shall be liable to a penalty not exceeding fifty rupees.

Private persons laying out new streets.

XXI. Every person who intends to make or lay out any new street, shall give notice in writing thereof to the Commissioners, showing the intended level and width of such street; and the level and width of every such street shall be fixed or approved by the Commissioners; and whoever lays out, makes, or builds upon any such street, otherwise than in accordance with the level and width so fixed or approved, shall be liable to a penalty not exceeding five hundred rupees; and the Commissioners may, if they think fit, cause any such street, laid out or made at a level or width otherwise than in accordance with the level or width so fixed or approved as aforesaid, to be altered, or may cause any building erected in any such street otherwise than in accordance with such level and width, to be altered, or, if necessary, removed, and the

expenses thereby incurred shall be paid to them by the offender and be recoverable as hereinafter provided. If no such level or width be fixed, and no approval or disapproval of the level or width proposed be signified by the Commissioners within one month, the intended street may be laid out and made upon the level and of the width specified in the notice.

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XXII. It shall not be lawful for any person to erect in or near any street, any hut or any range or block of huts on any plot or parcel of ground not previously built upon, or on which no huts are standing, without previous notice to the Commissioners; and the Commissioners may require such hut or huts to be built, so that they may stand in regular lines with a free passage or way in front of each line, of such width as the Commissioners may think proper for salutary ventilation, and to facilitate scavengering, and at such a level as will admit of sufficient drainage. And if any such hut or huts be built without giving such notice to the Commissioners, or otherwise than as required by the Commissioners,—the Commissioners may give notice to the builder or builders thereof to take down and remove the same within one month, and if such hut or huts be not taken down or removed according to such notice, the Commissioners may cause the same to be taken down and removed, and the expenses incurred in doing so shall be paid by the said builder or builders, and shall be recoverable as hereinafter provided.

Erection of new huts, to be under the control of the Commissioners.

XXIII. Whenever the Commissioners, by report of competent persons, are satisfied that any existing block of huts, in or near any street, is by reason of the manner in which the huts are huddled together, or of the want of drainage, and the impracticability of scavengering attended with risk of disease to the inhabitants or the neighbourhood, they may, with the consent of the Local Government, cause a notice to be affixed to some conspicuous part of such block of huts, requiring the owners or occupiers thereof, within such reasonable time as may be fixed by the Commissioners for that purpose, to execute such operations as the Commissioners may deem necessary for the avoidance of such risk. And in

Power of Commissioners as to existing hut.

case such owners or occupiers shall refuse or neglect to execute such operations within the time appointed, the Commissioners may cause the said huts to be taken down, or such operations to be performed in respect of such huts, as the Commissioners may deem necessary to prevent such risk. If such huts be pulled down, the Commissioners shall cause the materials of each hut to be sold separately, if such sale can be effected; and the proceeds shall be paid to the owner of the hut, or if the owner be unknown, or the title disputed, shall be held in deposit by the Commissioners until the person interested therein shall obtain the order of a competent Court for the payment of the same. The Courts of Small Causes for Calcutta, Madras and Bombay, shall respectively be deemed competent Courts for that purpose.

Paving, &c., of private streets.

XXIV. If any street (not being a public street), or any part thereof, be not levelled, paved, metalled, flagged, channelled, and sewered to the satisfaction of the Commissioners, they may, by notice in writing to the respective owners or occupiers of the premises fronting, adjoining, or abutting upon, such parts thereof as may need to be levelled, paved, metalled, flagged, channelled, and sewered, require them to level, metal, pave, flag, channel, and sewer the same within a time to be specified in such notice and upon non-compliance, the Commissioners may, if they thing fit, execute the works mentioned or referred to therein; and the expenses incurred by them in so doing shall be paid by the owners in default according to the frontage of their respective premises, and in such proportion as shall be settled by the Commissioners, or, in case of dispute, as shall be settled by the manner hereinafter provided for the settlement of disputes respecting damages and expenses; and such expense shall be recoverable as hereinafter provided. Provided always that after such street shall have been so levelled, paved, metalled, flagged, channelled, and sewered, on the requisition of the Commissioners, or by the Commissioners as aforesaid, at the expense of the owners, such owners shall have a right to require that the street shall be declared a public street to be from time to time repaired by the Commissioners out of the funds at their disposal for the purposes of this Act.

Proviso.

XXV. If any street (not being a public street) be levelled, paved, metalled, flagged, channelled, and sewered to the satisfaction of the Commissioners, they may, if they think fit, by notice in writing, put up in any part of such street, declare the same to be a public street, and thereupon the same shall become a public street, and be from time to time repaired by them out of the funds at their disposal. Provided that no street shall become a public street as last aforesaid if within one month after such notice in writing, the owner of such street, or any one of the owners shall, by notice in writing to the Commissioners, object thereto.

Certain streets to be deemed public and repaired by the Commissioners.

Proviso.

XXVI. The Commissioners may, upon such terms as they think fit, allow any house or building to be set forward for improving the line of any public street in which such house or building is situated.

Houses may be set forward for improving line of streets.

XXVII. When any house or building, any part of which projects beyond the regular line of a public street, or beyond the front of the house or building on either side thereof, has been taken down in order to be re-built or altered, the Commissioners may require the same to be set back to or towards the line of the street or the line of the adjoining houses or buildings. Provided always, that the Commissioners shall make full compensation to the owner of any such house or building for any damage he may thereby sustain; and if any dispute shall arise touching the amount of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Houses projecting beyond line of street when taken down, to be set back.

Proviso.

XXVIII. The Commissioners may, from time to time, cause to be put up or painted on a conspicuous part of some house, building, wall, or place at or near each end, corner, or entrance of every street, the name by which such street is to be known; and whoever destroys, pulls down, or defaces any such name, or puts up any name different from that put up by order of the Commissioners, shall be liable to a penalty not exceeding twenty Rupees.

Names of Streets.

XXIX. The Commissioners may, from time to time, fix a number in a conspicuous place on the outer side of any house or building, or at the entrance of the enclosure thereof fronting the street; and whoever destroys, pulls down, or defaces any such number, shall be liable to a penalty not exceeding twenty Rupees.

Numbers on houses.

XXX. All doors, gates, bars, and ground-floor windows put up after the passing of this Act, which open upon any public street, shall be hung or placed so as not to open outwards, except when the same are hung or placed in such manner as, in the judgment of the Commissioners, to cause no obstruction in any such street; and if (except as aforesaid) any such door, gate, bar, or window be hung or placed so as to open outwards on any such street, the owner of the premises to which the same is attached shall, within eight days after notice from the Commissioners to that effect, cause the same to be altered so as not to open outwards, and in case he neglects so to do, the Commissioners may make such alteration, and the expense thereof shall be paid by such owners and shall be recoverable as hereinafter provided.

Doors not to open outwards.

Exception.

XXXI. If any door, gate, bar, ground-floor window put up before the passing of this Act is hung or placed so as to open outwards upon any public street the Commissioners may alter the same, so that no part thereof, when open, shall project over any such street so as to cause an obstruction.

Doors opening outwards to be altered

XXXII. The owner of every house or building in any public street shall within eight days after notice from the Commisioners to that effect, put up and keep in good condition, proper troughs and pipes for catching and carrying the water from the roof and other part of such house or building, and for discharging the same in such manner that it shall not fall upon the persons passing along the street; and in default of compliance with such notice within the period aforesaid, such owner shall be liable to a penalty not exceeding ten Rupees for every day that he shall so make default.

Troughs and pipes to be fixed to houses

XXXIII. The Commissioners may give notice in writing to

Future projections from houses to be removed.

the owner or occupier of any house or building to remove or alter any projection, encroachment, or obstruction, which, after the passing of this Act, shall be erected or placed against or in front of such house or building, if the same overhangs, or juts into, or in any way projects or encroaches upon, or is an obstruction to the safe and convenient passage along any public street, or obstructs or projects or encroaches into or upon any uncovered aqueduct, drain, or sewer in such street; and such owner or occupier shall within fourteen days after the service of such notice upon him, remove such projection, encroachment, or obstruction, or alter the same in such manner as shall have been directed by the Commissioners; and in default thereof, shall be liable to a penalty not exceeding two hundred Rupees; and the Commissioners in such case may remove such projection, encroachment, or obstruction; and the expense of such removal shall be paid by the owner or occupier so making default, and shall be recoverable as hereinafter provided. Provided that, when the expense shall have been paid by the occupier, except in the case in which such projections, encroachments or obstructions were made or put up by him, such occupier shall be entitled to deduct the expense of removing or altering the same from the rent payable by him to the owner of the house or building. Provided always, that the roofs or eaves of houses or buildings, sun-shades, weather-frames and the like, at a height not less than twelve feet above the surface of any street, may be projected to the extent of three feet over the same.

Proviso.

Sun-shades, &c.

XXXIV. The Commissioners may cause any such projection, encroachment, or obstruction, erected or placed against or in front of any house or building, in any public street, before the passing of this Act, to be removed or altered as they think fit; provided that they give notice of such intended removal or alteration to the occupier of the house or building against or in front of which such projection, encroachment, or obstruction shall be, thirty days before such alteration or removal is begun; and if such projection, encroachment, or obstruction shall have been lawfully made, they shall make

Removal of existing projections from houses.

Notice of removal.

Compensation when to be made.

reasonable compensation to every person who suffers damage by such removal or alteration; and if any dispute shall arise touching the amount of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Commissioners may allow certain projections from houses.

XXXV. The Commissioners may give permission in writing to the owners or occupiers of houses or buildings in public streets, the width of which is not less than twenty-five feet, to put up verandahs, balconies, sunshades, weather-frames, and the like, to project from any upper-story thereof over the street, to an extent not exceeding four feet from the foundation, and, for special reasons, to allow such projections to be extended to five feet.

Roofs and external walls of houses not to be made of combustible materials.

XXXVI. The external roofs and walls of hut or other buildings erected or renewed in or near any streets after the passing of this Act, shall not be made of grass, leaves, mats, or other such inflammable materials; and it shall not be lawful for the owner of any hut or other building in or near any street now having an external roof or wall made of any such material, and which is contiguous to or adjoining to any other building, to suffer such roof or wall to remain for a longer time than two years after the passing of this Act, unless with the consent in writing of the Commissioners; and whoever makes any external roof or wall of such materials, or suffers any roof or wall made of such materials, to continue contrary to the provisions herein contained, and who shall not remove or alter the same within one month after notice given to him for that purpose by the Commissioners, shall be liable to a penalty not exceeding ten Rupees for every day that such roof or wall shall continue.

Houses in a ruinous and dangerous state.

XXXVII. If, in any street, any house, building, or wall, or any thing affixed thereon, be deemed by the Commissioners to be in a ruinous state or likely to fall, or in any way dangerous to the inhabitants of such house or building, or to the neighbouring houses or buildings, or the occupiers thereof, or to passengers, they shall immediately, if it appears to them to be necessary, cause a proper

board or fence to be put up for the protection of passengers; and shall cause notice in writing to be given to the owner, if he be known and resident within the limits of their jurisdiction, and shall also cause such notice to be put on the door or other conspicuous part of the said premises or otherwise to be given to the occupier thereof (if any), requiring such owner or occupier forthwith to take down, secure, or repair such house, building, wall, or thing affixed thereon, as the case shall require; and if such owner or occupier do not begin to repair, take down, or secure the same within three days after such notice, and complete such work with due diligence, the Commissioners shall cause all or so much of such house, building, wall, or thing, as they shall think necessary, to be taken down, repaired, or otherwise secured; and all the expenses incurred by the Commissioners shall be paid by the owner of the premises and shall be recoverable from him as hereinafter provided.

Sale of materials of ruinous houses.

XXXVIII. If any such house, building or wall, or any part of the same, be pulled down by virtue of the powers aforesaid, the Commissioners may sell the materials thereof or of so much of the same as shall be taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore any overplus arising from such sale to the owner of such house, building or wall, on demand. The Commissioners, although they sell such materials for the purposes aforesaid, shall have the s[illegible]edies for compelling the payment of so much of the [illegible]xpenses as may remain due after the application of the proceeds of such sale as by this Act are given to them for compelling the payment of the whole of the said expenses.

Power to shut up and secure deserted houses.

XXXIX. If any building or land, by reason of the abandonment or of the disputed ownership or other cause, shall remain untenanted and thereby become a resort of idle and disorderly persons, or be complained of by any two or more of the neighbours as a nuisance, the Commissioners, after due enquiry, may cause notice in writing to be given to the owner, or to the person claiming to be the owner if he be known and resident within the limits of their jurisdiction, and shall also cause such notice to be put on the door of the building or some conspicuous part of the

premises, requiring the persons concerned therein, whoever they may be, to secure or enclose the same; and if such notice shall not be complied with within eight days, the Commissioners shall cause the necessary work to be executed, and all expenses thereby incurred shall be paid by the owner of the premises, and shall be recoverable as hereinafter provided.

Penalty on occupier of a house not removing filth.

XL. Whoever, being the occupier of a house in or near any street, keeps or allows to be kept for more than 24 hours, or otherwise, than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth, or any noxious or offensive matter, in or upon the roof of such house, or in any out-house, yard, or ground attached to and occupied with such house, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth therefrom and to cleanse and purify the same, shall be liable to a penalty not exceeding Fifty Rupees.

Filthy houses, &c.

XLI. Whoever, being the owner or occupier of any house building or land, in or near any street, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or overgrown with rank and noisome vegetation, shall be liable to a penalty not exceeding Fifty Rupees, and to a penalty not exceeding Five Rupees for every day after conviction for such offence during which the offence is continued.

Power to trim hedges and trees bordering roads.

XLII. The Commissioners may give notice to the owner or occupier of any land to trim or prune the hedges thereof bordering any public road or street, so that they may not exceed the height of seven feet from the level of the road; and to cut and trim all trees overhanging any public road or street, so as to obstruct the passage or to cause damage thereto; and in the event of such notice not being complied with within eight days from the date thereof, the Commissioners may cause the said hedges and trees to be cut and trimmed in the manner required, and the expense incurred by the Commissioners in respect thereof, shall be paid to them by the owners, and shall be recoverable as hereinafter provided.

XLIII. Whoever keeps any pig-stye to the front of any

Keeping swine, &c., in or near any street.

street, not being shut out therefrom by a sufficient wall or fence, or who shall keep any swine in or near any street, so as to be a nuisance to the neighbourhood; or who shall, without the permission of the Commissioners, keep more than twenty sheep or goats, or ten horned cattle, in or near any street, shall be liable to a penalty not exceeding fifty Rupees.

Sewers, drains, &c., vested in the Commissioners.

XLVI. All public sewers and drains, and all sewers, drains, tunnels, and culverts in, alongside, and under the streets and roads existing at the time of the passing of this Act, or afterwards made, and whether made at the cost of the Commissioners or otherwise, and all works, materials, and things appertaining thereto, shall be vested in and belong to the Commissioners.

Commissioners to make public sewers.

XLV. The Commissioners, so far as the funds at their disposal will admit, shall from time to time cause to be made such main and other sewers as they may judge necessary for the effectual draining of the Town or Station under their authority; and, if needful, they may carry such sewers through, across, or under any street, or any place laid out as or intended for a street or any cellar or vault which may be under any of the streets, and (after reasonable notice in writing in that behalf) into, through, or under any inclosed or other lands whatsoever, doing as little damage as may be, and making full compensation for any damage done; and if any dispute shall arise touching the amount or apportionment of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Commissioners to repair and alter and discontinue sewers.

XLVI. The Commissioners shall maintain, and from time to time repair, and as they see fit enlarge, alter, arch-over, or otherwise improve all or any of the sewers and drains vested in them by this Act; and may discontinue, close up, or destroy, such of them as they may deem useless or unnecessary. Provided always that the discontinuance, closing up or destruction of any sewer or drain shall be so done as not to create a nuisance; and if, by reason thereof, or of any such alteration as hereinbefore men-

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tioned, any person is deprived of the lawful use of any sewer or drain, the Commissioners shall, with due diligence, provide some other sewer or drain as effectual for his use as the one of which he is so deprived.

Cleansing and emptying sewers.

XLVII. The Commissioners, so far as the funds at their disposal will admit, shall cause the sewers and drains belonging to them to be so constructed, maintained, and kept, as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied; and for the purpose of flushing, cleansing, and emptying the same, they may construct and place, either above or underground, such reservoirs, sluices, engines, and other works as may be necessary; and they may also with the consent of the Local Government cause all or any of such sewers and drains to communicate with and be emptied into the sea or any public river (as the case may admit) or other fit place; or they may cause the refuse from such sewers and drains to be conveyed by a proper channel to the most convenient site for its deposit, and may sell the same for any agricultural or other purposes as may be deemed most expedient, but so that the same shall not become a nuisance.

Bed of stream receiving sewerage to be cleared.

XLVIII. When the contents of any sewer or drain or any other flow or filth or refuse are discharged into any river or stream, in the bed or channel of which the quantity of water at any season of the year, is so much diminished by natural or artificial causes as to be insufficient to keep such channel clean or clear, the Commissioners shall with the consent of the Local Government so far as the funds at their disposal will admit, make such alteration in the bed of such river or stream as may prevent such sewer and drain-water from spreading over the surface of such bed, or from accumulating and stagnating in parts thereof to the injury of health or the annoyance of the surrounding population.

Penalty for making unauthorized drains into public sewers.

XLIX. Whoever, without the written consent of the Commissioners first obtained, makes or causes to be made any drain into any of the sewers or drains vested in them by this Act, shall be liable to a penalty not exceeding one hundred Rupees; and

the Commissioners may cause such branch-drain to be demolished, altered, re-made, or otherwise dealt with as they think fit; and all the expense incurred thereby shall be paid by the person making such branch-drain, and shall be recoverable as hereinafter provided.

Building over sewers, &c., not to be erected without consent of Commissioners.

L. No building shall be newly erected over any sewer or drain vested in the Commissioners by this Act, without their written consent; and if any building be so erected, the Commissioners may cause the same to be pulled down, or otherwise dealt with as they may think fit; and the expenses thereby incurred shall be paid by the person offending, and be recoverable as hereinafter provided.

Commissioners empowered to make drains from houses in or near street, which are not properly drained.

LI. If any house or building, in or near any street, be at any time not drained to the satisfaction of the Commissioners by a sufficient drain or pipe communicating with some sewer or with the sea, or public river or other place at which the Commissioners are empowered to empty their sewers, and if there be such means of drainage within one hundred feet of any part of such house or building, the Commissioners may construct or lay from such house or building a covered drain or pipe, of such materials, of such size, at such level, and with such fall as they think necessary for the draining of such house or building; and the expenses incurred by the Commissioners in respect thereof, if not forthwith paid by the owner, shall be recoverable as hereinafter directed. Provided that the cost of executing such work shall not, without the consent of the owner, exceed the amount of three months' rent of the house or building.

Level of house hereafter built in or near streets.

LII. No house or building shall be hereafter built in or near any street upon a lower level than will allow of the drainage of such house or building being led into some public sewer either then existing or projected by the Commissioners, or into the sea, or some public river or other place into which the Commissioners are empowered to empty their sewers.

Houses hereafter built in or near streets to have drains constructed under the orders of the Commissioners.

LIII. If any house or building, newly elected or re-built in or near any street after the passing of this Act, have such means of drainage as in the last preceding Section mentioned, existing

within one hundred feet thereof, the owner shall make a drain leading thereunto from the site of such house or building, of such materials, of such size, at such level, and with such fall as the Commissioners may direct; and if he neglect to do so within a reasonable time, the Commissioners may cause the same to be done, and the expenses thereby incurred shall be paid by the owner and shall be recoverable as hereinafter provided.

Notice of new buildings in or near streets to be given to Commissioners.

LIV. Before beginning, in or near any street, to build or re-build any house, the person intending to build or re-build such house shall give to the Commissioners notice thereof in writing and shall accompany such notice with a plan showing the levels at which the foundation and lowest floor of such house, are proposed to be laid by reference to some level ascertained under the direction of the Commissioners.

Commissioners to signify disapproval within fourteen days,

LV. Within fourteen days after receiving such notice the Commissioners may signify their disapproval of the proposed levels and fix other levels in lieu thereof.

Houses built without notice, or contrary to provisions of this Act, may be altered by Commissioners.

LVI. If such building be begun or made without sending such notice and plan, or at any levels different from those fixed by the Commissioners within the said fourteen days, or in any other respect contrary to the provisions of this Act, the Commissioners may, if necessary, cause such building to be altered or demolished as the case may require; and the expense thereby incurred shall be paid by the person failing to comply with the provisions aforesaid, and shall be recoverable as hereinafter provided.

If Commissioners fail to approve, &c., within fourteen days, parties may proceed without.

LVII. If the Commissioners fail to signify in writing their approval or disapproval of the levels shown on such plan as aforesaid and to fix other levels within fourteen days after receiving such notice and plan as aforesaid, the person giving such notice may, notwithstanding any thing hereinbefore contained, proceed to build or rebuild the house therein referred to according to the levels shown on such plan, provided that such building or rebuilding be otherwise in accordance with the provisions of this Act.

Sewers in streets to be covered with traps, &c.

LVIII. All sewers and drains in streets, whether public or private, shall be provided by the Commissioners or other persons to whom they severally belong, with proper traps or other coverings or means of ventilation so as to prevent stench. If the owner of any private sewer or drain shall, for ten days after notice given to him by the Commissioners, neglect or delay to provide proper traps or coverings, or means of ventilation as aforesaid, the Commissioners may forthwith provide and apply the same, and the expense incurred thereby shall be paid by the owner of such sewer or drain and shall be recoverable as such hereinafter provided.

Power of Commissioners to erect or affix to buildings pipes for ventilation of sewers.

LIX. The Commissioners may erect or fix to any house or building such pipes as they may deem necessary for the proper ventilation of the sewers belonging to them, and such pipes shall be carried to a height of not less than six feet above the highest part of the house or building and erected so as not to occasion any nuisance or inconvenience to any house or building in the neighbourhood.

Throwing rubbish into sewers.

LX. Whoever throws or puts, or permits his servants to throw or put, any earth, dirt, ashes, garden, kitchen or stable refuse, or any broken glass or earthenware, or other rubbish, or, until suitable sewers shall be provided, any night soil, into any sewer or drain belonging to the Commissioners, or into any drain communicating therewith, shall be liable to a penalty not exceeding fifty Rupees.

Common necessaries.

LXI. The Commissioners may, if they think fit, provide and maintain in proper and convenient situations so as not to create a nuisance, common necessaries and urinals, and shall cause the same to be kept in proper order and to be daily cleansed.

Licensing of public necessaries.

LXII. The Commissioners may license, for any period not exceeding one year, such necessaries for public accommodation as they, from time to time, may think proper; and whoever keeps any public necessary without such license, or, having a license for a public necessary, suffers the same to be in a filthy or noxious state, or neglects to employ proper means for cleansing the same, shall be liable to a penalty not exceeding fifty Rupees; and the license may be cancelled by the Magistrate before whom the person is convicted.

Neglecting to close private privy.

LXIII. The owner or occupier of any house or building having a privy erected on his premises shall have such privy shut out by a sufficient wall or fence from the view of persons passing by.

Branch drains, privies, &c., to be under control of Commissioners, and to be kept in good order by owners.

LXIV. All branch drains, as well within as without the lands or buildings to which they belong, and all privies and cesspools in or near any street shall be under the survey and control of the Commissioners, and shall be altered, repaired, and kept in proper order at the costs and charges of the owners of the lands and buildings to which the same belong or for the use of which they are constructed or continued; and if the owner of any land or buildings to which any such drain, privy, or cesspool belongs, neglect, during eight days after notice in writing for that purpose, to alter, repair and put the same into good order in the manner required by the Commissioners, the Commissioners may cause such drain, privy, or cesspool to be altered, repaired and put in good order; and the expense incurred by the Commissioners in respect thereof shall be paid by the owner, and shall be recoverable, as hereinafter provided.

If owners neglect, Commissioners may cause the same to be done and charge the owners with the expense.

Penalty for persons making or altering drains, &c., contrary to the orders of the Commissioners.

LXV. If any such drain, privy, or cesspool is constructed after the passing of this Act, contrary to the directions and regulations of the Commissioners, or contrary to the provisions of this Act; or if any person, without the consent of the Commissioners, constructs, rebuilds, or unstops, any drain, privy, or cesspool which has been ordered by them to be demolished or stopped up or not to be made, every person so doing shall be liable to a penalty not exceeding fifty Rupees; and the Commissioners may cause such amendment or alteration to be made in any such drain, privy, or cesspool as they think fit; and the expense thereof shall be paid by the person by whom such drain, privy, or cesspool was improperly constructed, rebuilt, or unstopped, and shall be recoverable from him as hereinafter provided.

Inspection of drains, privies, and cesspools.

LXVI. The Commissioners, or any officer appointed by them for the purpose, may inspect any such drain, privy, or cesspool, and for that purpose, at all reasonable times in the day-time, after twenty-four hours'

notice in writing to the occupier of the premises to which such drain, privy, or cesspool is attached, may enter upon any lands and buildings with such assistants and workmen as are necessary, and cause the ground to be opened where they or he may think fit, doing as little damage as may be; and if, upon such inspection, it appears that the drain, privy, or cesspool is not in good order and condition, or that it has been constructed after the passing of this Act contrary to the provisions thereof, the expenses of such inspection shall be paid by the person to whom such drain, privy, or cesspool may belong; but if the drain, privy, or cesspool be found to be in proper order and condition and not to have been constructed in violation of the provisions of this Act, the Commissioners or officer as aforesaid shall cause the ground to be closed and made good as soon as may be; and the expenses of opening, closing, and making good such drain, privy, or cesspool shall, in that case, be defrayed by the Commissioners. Provided always, that nothing hereinbefore contained shall authorise an entry into the Zenanas or private apartments appropriated to the females of Hindoo and Mussulman families for the purpose of such inspection, except by the agency of women.

Proviso.

LXVII. Where any notice is required by this Act to be given to the owner or occupier of any building or land, such notice, addressed to the owner or occupier as the case may require, may be served on the occupier of such building or land or left with some adult male member or servant of his family, or if the notice cannot be so served, or if there be no occupier, may be put up on some conspicuous part of such building or land, and it shall not be necessary in any such notice to name the occupier or the owner. Provided always, that, when the owner and his residence are known to the Commissioners, it shall be their duty, if such owner be residing within the Town or Station under their authority, to cause every notice required to be given to the owner of any building or land, to be served on such owner or left with some adult male member or servant of his family; and, if the owner be not resident within the Town or Station, they shall send every such notice by the post addressed to his residence.

Service of notice on owners and occupiers of buildings and lands.

Commissioners, in default of owner or occupier, may execute works and recover expenses.

LXVIII. Whenever, under the provisions of this Act, any work is required to be executed by the owner or occupier of any building or land, and default is made in the execution of such works, the Commissioners, whether any penalty is or is not provided for such default, may cause such work to be executed; and the expense thereby incurred shall be paid to them by the person by whom such works ought to have been executed, and shall be recoverable as hereinafter provided.

Power to levy charges on occupier, who may deduct the same from his rent.

LXIX. If the defaulter be the owner of the building or land, the Commissioners may, by way of additional remedy, whether any action or proceeding has been brought or taken against any such owner or not, require the payment of all or any part of the expenses payable by the owner for the time being from the person who then or at any time thereafter occupies the building or land under such owner; and, in default of payment thereof by such occupier on demand, the same may be levied by distress of the goods and chattels of such occupier; and every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from him in respect of any such expenses.

Occupier not to be liable for more than the amount of rent due.

LXX. No occupier of any building or land shall be liable to pay more money, in respect of any expenses charged by this Act on the owner thereof, than the amount of rent due from him for the premises in respect of which such expenses are payable at the time of the demand made upon him or which at any time after such demand, has accrued and become payable by him, unless he neglect or refuse, upon application made to him for that purpose by the Commissioner, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand or which has since accrued, shall lie upon such occupier; provided further, that nothing herein contained shall be taken to affect any special contract made between any such owner or occupier respecting the payment of the expenses of any such works as aforesaid.

Occupier, in default of owner, may execute works and deduct expenses from his rent.

LXXI. Whenever default is made by the owner of any building or land in the execution of any work required to be executed by him, the occupier of such building or land may, with the approval of the Commissioners, cause such work to be executed, and the expense thereof shall be paid to him by the owner, and the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Proceedings in case of tenants opposing the execution of this Act.

LXXII. If the occupier of any building or land prevent the owner thereof from carrying into effect in respect of such building or land any of the provisions of this Act, after notice of his intention so to do, has been given by the owner to such occupier, any Magistrate, upon proof thereof, may make an order in writing requiring such occupier to permit the owner to execute all such works with respect of such building or land as may be necessary for carrying into effect the provisions of this Act; and if, after the expiration of eight days from the date of the order, such occupier continue to refuse, to permit such owner to execute such works, such occupier shall, for every day during which he so continues to refuse, be liable to a penalty not exceeding fifty Rupees; and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Tanks, &c., vested in the Commissioners.

LXXIII. All public tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps, and other water works, existing at the time of the passing of this Act or afterwards made, and whether made at the cost of the Commissioners or otherwise; and all bridges, buildings, engines, works, materials, and things connected therewith or appertaining thereto; and also any adjacent land (not being private property) appertaining to any public tank, shall be vested in and belong to the Commissioners.

Construction and maintenance of works for supply of water.

LXXIV. The Commissioners shall cause all existing public tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps, and other water-works used for the supply of water to the inhabitants or for the other purposes mentioned in this Act,

to be continued, maintained, and supplied with water; or they shall substitute other such works and shall cause them to be maintained and supplied with water; and the Commissioners from time to time, with the consent of the Local Government, may construct aqueducts for bringing water into the Town or Station under their authority, and may provide any number of new tanks, reservoirs, cisterns, wells, and other such water-works for the purposes aforesaid.

Provision for supply of water in cases of fire.

LXXV. The Commissioners shall, so far as the funds at their disposal will admit, cause all necessary works, machinery, and assistance for securing an efficient supply of water in cases of fire, to be provided and maintained.

Fouling water by—

Bathing.

Washing.

Throwing rubbish, &c.

Allowing drains, &c., to flow.

LXXVI. Whoever, except as permitted by the Commissioners under Section LXXIX, bathes in any stream, tank, reservoir, well, cistern, conduit, or aqueduct belonging to the Commissioners; or washes or causes to be washed therein, any horse, dog, or other animal, or any wool, cloth, or wearing apparel, or any utensils for cooking or other purposes, or leather, or the skin of any animal, or other foul or offensive thing; or throws, puts, or casts, or causes to enter therein, any animal or any gravel, stone, dust, or rubbish, or any dirt, filth, or other noisome or offensive matter or thing; or causes or suffers to run, drain, or to be brought thereinto, the water of any sink, sewer, drain, engine, or boiler, or any other unwholesome or offensive liquid matter or thing belonging to him or flowing from any house or building or from any ground occupied by him; or does any thing whatsoever, whereby any such water shall be in any degree fouled or corrupted—shall be liable to a penalty not exceeding fifty Rupees.

Water fouled by offensive trades.

LXXVII. Whoever, being the proprietor of any gas-works, or being engaged or employed in the manufacture or supply of gas, or being the occupier or proprietor of any place where an offensive trade or manufacture is carried on, wilfully does any act connected with the said business, whereby the water in any stream, tank, reservoir, well,

cistern, conduit, aqueduct, or other water-works belonging to the Commissioners, is fouled or corrupted, shall be liable to a penalty, not exceeding one thousand Rupees, and to a further penalty, not exceeding five hundred Rupees, for every day while the offence is continued after twenty-four hours' notice in writing from the Commissioners in this behalf; and the Commissioners may, after twenty-four hours' notice in writing, lay open and examine any pipes, conduits, and works belonging to such person; and if, upon such examination it appears that the water has been fouled or corrupted by any thing proceeding from or contained in the pipes, conduits, or works examined, the expenses of such examination shall be paid by person to whom such pipes, conduits, or works belong, or under whose management or control they may be, and be recoverable from him as hereinafter provided; but if it appear that the water has not been so fouled or corrupted, then such expenses and all reasonable damages occasioned by the examination, shall be paid by the Commissioners.

Injuring waterworks, or diverting or wasting water.

LXXVIII. Whoever wilfully or carelessly injures any water-works belonging to the Commissioners, or unlawfully draws off, diverts, or takes water from any such water-works or from any waters or streams belonging to the Commissioners by which such water-works are supplied, shall be liable to a penalty not exceeding one hundred Rupees.

Commissioners may set apart bathing places, &c.

LXXIX. The Commissioners may, at their discretion, set apart any public ghaut or place, or any part of the sea-shore, or of the strand of any river (not being private property), for the purpose of being used as a bathing place; and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in; and may also set apart tanks or reservoirs or runs of water for washing animals or clothes, or for any other purpose connected with the health, cleanliness, and comfort of the inhabitants.

Bye-laws to regulate

LXXX. The Commissioners may, in the manner hereinafter provided, make bye-laws—

The use of water.

For regulating all or any matters and things whatsoever connected with the water to be supplied by them and the use of such water for any of the purposes mentioned in this Act.

And for regulating the time and place of bathing for persons of each sex in the places provided or appointed by them for the purpose of bathing in such manner as shall appear to the Commissioners necessary, making due allowance for the habits and customs of the country.

Bathing places.

LXXXI. When any private tank or low marshy ground, or any waste or stagnant water, being within any private enclosure, appears to the Commissioners to be injurious to health, or to be offensive to the neighbourhood, it shall be lawful for the Commissioners to require, by notice in writing, the owner of the said premises to cleanse or fill up such tank or marshy ground, or to drain off or remove such stagnant water; and if he shall refuse or neglect to comply with such requisition during eight days from the service thereof, the Commissioners, their Officers, and workmen, may enter into the said premises and do all necessary acts for all or any of the purposes aforesaid as they shall think fit; and the expense incurred thereby shall be paid by the owner of such premises, and shall be recoverable as hereinafter provided.

Power to fill up unwholesome tanks on private premises.

LXXXII. The Commissioners are hereby empowered, from time to time as they shall see fit, to drain off into any sewers, and cleanse and fill up or otherwise abate, any stagnant pool, ditch, tank, pond, or other receptacle of water (the same not being within any private enclosure) which shall appear to them to be useless or unnecessary or likely to prove injurious to the health of the inhabitants, whether the same be the private property of any person or otherwise; and the Commissioners, their Officers, and workmen, may do all necessary acts for effecting any of the purposes aforesaid.

Power to drain off and cleanse stagnant pools in open places.

LXXXIII. The Commissioners, in executing any works directed or authorized by this Act to be made, shall provide and make, at their own expense, a sufficient number of convenient ways, water-courses, drains, and channels in the place of such as may be interrupted, injured, or rendered useless by reason of the execution of such works; and in case of any difference arising between the Commissioners and the persons affected thereby, such difference shall be settled in the manner

Commissioners in executing works to provide roads, &c., where existing ones injured.

hereinafter provided for the settlement of disputes respecting damages and expenses.

Commissioners breaking up street to restore the same with all convenient speed.

LXXXIV. When the pavement or surface of any street, or when any sewer or drain shall be opened or broken up by the Commissioners, their Officers, or servants, they shall, with all convenient speed, complete the work on account of which the same shall have been broken up, and fill in the ground and make good the pavement and surface, and the sewer or drain, so opened or broken up, and carry away the rubbish occasioned thereby; and shall, in the meantime, cause the place where such pavement or surface shall be so opened or broken up to be fenced and guarded, and sufficiently lighted during the night.

Situation of gas and water-pipes to be altered at the expense of the Commissioners.

LXXXV. If the Commissioners deem it necessary for the purposes of this Act, to raise, sink, or otherwise alter the situation of any water-pipe, or gas-pipe, or other water-works or gas-works laid in any of the streets, they may from time to time, by notice in writing require the person to whom any such pipes or works belong or under whose control they may be, to cause forthwith, or as soon as conveniently may be, any such pipes or works to be raised, sunk, or otherwise altered in position in such manner as the Commissioners direct; provided that such alteration be not such as permanently to injure such works, or to prevent the water or gas from flowing as freely and conveniently as before; and the expenses attending such raising, sinking, or altering, and full compensation for the damage done thereby, shall be paid by the Commissioners, as well to the persons to whom such pipes or works belong as to all other persons. And if any dispute shall arise touching the amount or apportionment of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

If Companies neglect to make alterations, the Commissioners may cause the same to be done.

LXXXVI. If the person to whom any such pipes or works belong or under whose control they may be, do not proceed forthwith, or as soon as conveniently may be after the receipt of such notice, to cause the same to be raised, sunk, or

altered, in such manner as the Commissioners require, the Commissioners may themselves cause such pipes or works to be raised, sunk, or altered as they think fit; provided that such works be not permanently injured thereby, or the water or gas prevented from flowing as freely and conveniently as before.

Hoards to be set up during repairs.

LXXXVII. Every person intending to build or take down any building or to alter or repair the outward part of any building where any street or footway will be obstructed or rendered inconvenient by means of such work shall, before beginning the same, and having first obtained a license in writing from the Commissioners so to do, cause sufficient hoards or fences to be put up, in order to separate the building where such works are being carried on from the street or footway, and shall continue such hoard or fence standing and in good condition to the satisfaction of the Commissioners, during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night and every such person who begins to build, or take down, or alter, or repair, any building contrary to the provisions of this Section, or who, without license erects or sets up any hoards, scaffolding, or fence whatsoever, or who, being licensed, fails to put up such fence or hoard, or to continue the same standing and in good condition as aforesaid during the time aforesaid, or who does not, while the said hoard or fence is standing, keep the same sufficiently lighted during the night, or who does not remove the same when directed by the Commissioners within a reasonable time afterwards, shall be liable to a penalty not exceeding fifty rupees, and a further penalty, not exceeding fifty Rupees, for every day while the offence is continued after twenty-four hours' notice from the Commissioners.

Bars to be erected across streets during repairs, and lights placed at nights.

LXXXVIII. The Commissioners shall, during the construction or repair of any of the streets, sewers, or drains vested in them, take proper precaution for guarding against accident, by shoring up and protecting the adjoining houses, and shall cause such bars, chains, or posts to be fixed across or in any of the streets or roads to prevent the passage of carriages, carts, or other vehicles, cattle, or horses, while such works are carried on, as to them shall seem proper; and the Commissioners shall cause any

sewer or drain or other works in streets, during the construction or repair thereof by them, to be sufficiently lighted and guarded during the night; and whoever takes down, alters, or removes any of the said bars, chains, or posts or extinguishes any light, without the authority or consent of the Commissioners, shall be liable to a penalty not exceeding fifty Rupees.

Penalty for not lighting deposits of building materials or excavations.

LXXXIX. No person shall deposit any building materials or make a hole in any street, without the permission of the Commissioners; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole, to be sufficiently fenced and enclosed until the materials are removed, or the hole is filled up or otherwise made secure; and shall cause the same to be sufficiently lighted during the night; and whoever deposits materials or makes a hole without such permission, or fails to fence or enclose and light such materials or hole, or does not remove such materials or fill up such hole when the permission has been withdrawn, shall be liable to a penalty not exceeding fifty Rupees, and a further penalty not exceeding fifty Rupees for every day while the offence is continued after twenty-four hours' notice from the Commissioners.

Dangerous places near streets to be repaired or enclosed.

XC. If any building, tank, well, or hole, or other place, be, for want of sufficient repair, protection, or enclosure, dangerous to passengers, the Commissioners shall cause the same to be repaired, protected, or enclosed so as to prevent danger therefrom; and the expenses of such repair, protection, or enclosure shall be paid to the Commissioners by the owner of the property so repaired, protected, or enclosed, and shall be recoverable as hereinafter provided.

Slaughter-houses within certain limits to be registered.

XCI. Within the parts of any of the said Towns and Stations which shall be specially prescribed by the Local Government for the purpose, every place used as a slaughter-house shall, within three months after the passing of this Act, be registered by the owner or occupier at the office of the Commissioners in a book to be kept by them for that purpose, and whoever, after the expiration of that time and after eight days' notice from the Commissioners, uses or permits to be used within the limits so pre-

scribed, any slaughter-house without its being registered, shall be liable to a penalty, not exceeding fifty Rupees, for every day during which such place shall be so used without having been registered.

Commissioners may order existing slaughter-houses to be discontinued.

XCII. If it be shown to the satisfaction of the Commissioners that any place used as a slaughter-house within the said limits is a nuisance to the neighbourhood, they may give notice to the occupier to discontinue such use thereof within one month; and whoever, after the expiration of that time, uses such place, or permits it to be used as a slaughter-house, shall be liable to a penalty not exceeding fifty Rupees for every day during which it shall be so used. Provided that the Commissioners shall make reasonable compensation for any damage that may be caused thereby to the occupier or owner; and if any dispute shall arise touching the amount of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Proviso.

No slaughter-houses to be newly set up without license.

XCIII. No place shall be used as a slaughter-house within the prescribed limits which was not in such use at the time of the passing of this Act, and has not so continued ever since, unless and until a license in writing for the use thereof as a slaughter-house has been obtained from the Commissioners, who are hereby empowered, at their discretion, from time to time, to grant such licenses; and whoever, without such license, uses as a slaughter-house any place within such limits, not used as such at the time of the passing of this Act, and so continued to be used ever since, shall be liable to a penalty not exceeding one hundred Rupees, and a penalty not exceeding fifty Rupees, for every day after the conviction for such offence, during which the said offence is continued.

Commissioners to provide places for slaughter-houses.

XCIV. The Commissioners may from time to time, if they shall think fit, with the consent of the Local Government, provide places for the purpose of being used as slaughter-houses, and they shall make bye-laws for and with respect to the management and charges for the use of such places.

Markets, slaughter-houses, &c., to be properly drained.

XCV. Every owner, occupier, or farmer of any market for the sale of butchers' meat, poultry, fish, or vegetables, or of any slaughter-house within the prescribed limits, shall cause such drains to be made therein as shall be considered sufficient by the Commissioners, and (if required so to do by the Commissioners) shall cause all the floors and drains to be paved with stone or burnt brick, and shall also cause a supply of water to be provided sufficient for keeping such market or slaughter-house in a clean and wholesome state; and if such owner, occupier, or farmer, after notice in writing given to him by the Commissioners that such market or slaughter-house is defective in any of the said particulars, and requiring him to remedy the defect specified within a reasonable time, which shall not be less than one month, makes default therein, he shall be liable to a penalty not exceeding fifty Rupees for every day during which such default is continued.

Commissioners may make bye-laws for the inspection of slaughter-houses

XCVI. The Commissioners may, in manner hereinafter provided, make bye-laws for the inspection of all such markets and of all slaughter-houses within the prescribed limits, and for the management and conduct of the business therein, and for keeping the same in a cleanly and proper state, and for removing filth at least once in every twenty-four hours.

Keeping unwholesome food in market, or in shops.

XCVII. Whoever keeps in any market, shop, building, stall, or place used for the sale of butcher's meat, poultry, fish, or vegetables, or exposes or allows to be exposed for sale in any other place or way, any animal, carcass, meat, poultry, game, flesh, fish, or vegetable which is unfit for the food of man, shall be liable to a penalty not exceeding one hundred rupees.

Sale of unwholesome food or drink.

XCVIII. Whoever sells or offers or exposes for sale, within any of the said Towns and Stations, as food or drink for man, any article which has been rendered or has become noxious or unfit for such use, knowing, or having reason to believe the same to be noxious or unfit for such use, shall be liable to a penalty not exceeding three hundred rupees, and such article shall be forfeited and disposed of as the Magistrate shall direct; and it shall be lawful for any Magistrate,

on the application of the Commissioners or any of their officers, setting forth that there is just cause to believe that any such article is in the possession of any person for the purpose of being sold or offered or exposed for sale as aforesaid, to grant a warrant to enter upon the premises of such person and to search for and seize such article, and if it appear to the Magistrate, upon the evidence of a competent person, that the same is noxious or unfit for such use, he shall order such article to be forfeited and disposed of in such way as to him shall seem proper.

Power to Commissioners to enter and inspect slaughter-houses, shops, &c., and to seize unwholesome articles exposed for sale.

XCIX. The Commissioners, or any person appointed by them for that purpose, may at all reasonable times, with or without assistants, enter into and inspect any market, building, shop, stall, or place used for the sale of butchers' meat, poultry, fish, or vegetables, or as a slaughter-house, and may examine any animal, carcass, meat, poultry, game, flesh, fish, or vegetables which may be therein; and in case any animal, carcass, meat, poultry, game, flesh, fish, or vegetables appear to be intended for the food of man, and to be unfit for such food, may seize the same; and if it appear to a Magistrate, upon the evidence of a competent person, that such animal, carcass, meat, poultry, game, flesh, fish, or vegetables is unfit for the food of man, he shall order the same to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food, and the owner thereof, or the person in whose possession the same is found, shall be liable to a penalty not exceeding one hundred Rupees.

Suspension or revocation of license, &c.

C. The Magistrate, before whom any person is convicted of an offence contrary to the provisions of this Act, relating to slaughter-houses, or of the non-observance of any of the bye-laws relating thereto, made by virtue of this Act, in addition to the penalty imposed on such person under the authority of this Act, may suspend, for any period not exceeding two months, the license granted to such person under this Act; or in case such person be the owner or occupier of any registered slaughter-house, may forbid, for any period not exceeding two months, the slaughtering of cattle therein; and the Magistrate, upon the conviction of any person for a second or other subsequent like offence, in addition to the

penalty imposed under the authority of this Act, may declare the license granted under this Act revoked, or if such person be the owner or occupier of any registered slaughter-house may forbid absolutely the slaughtering of cattle therein.

Penalty for using slaughter-houses during suspension or revocation of license

CI. Whoever, during the period for which any such license is suspended, or after the same is revoked as aforesaid, slaughters cattle, or allows cattle to be slaughtered in the slaughter-house to which such license relates, and whoever, during the period that the slaughtering of cattle in any such registered slaughter-house is forbidden as aforesaid, or after such slaughtering has been absolutely forbidden therein, slaughters cattle, or allows cattle to be slaughtered in any such registered slaughter-house, shall be liable to a penalty not exceeding Fifty Rupees, for every day after the conviction for such offence, during which the said offence is continued.

Offensive and dangerous trades existing within certain limits to be registered

CII. Within the parts of any of the said Towns and Stations which shall be especially prescribed by the Local Government for the purpose, the owner or occupier of every place used at the time of the passing of this Act for any of the following purposes, namely, for melting tallow—or for boiling offal or blood—or as a soap house—oil boiling house—dyeing house—tannery—brick, pottery, or lime kiln—sago manufactory—or other manufactory or place of business from which offensive or unwholesome smells arise—or as a yard or depôt for hay, straw, wood, or coal—shall, within three months after this Act comes into operation, register the same at the office of the Commissioners in a book to be kept by them for that purpose; and whoever, after the expiration of the said three months and after eight days' notice from the Commissioners, uses any such place without the same being registered, shall be liable to a penalty not exceeding fifty Rupees for every day during which the offence is continued.

Penalty for establishing such trades without license.

CIII. No place shall be newly used within the prescribed limits for any of the purposes mentioned in the last preceding Section, except under a license from the Commissioners, who are hereby empowered, at their discretion from time to time to

grant such licenses; and whoever, without a license, uses any such place for such purpose, shall be liable to a penalty not exceeding five hundred Rupees, and a penalty not exceeding fifty Rupees for every day after the conviction for such offence during which the said offence is continued.

Commissioners to make rules for licensing, registering, &c., such business places.

CIV. The Commissioners may, in the manner hereinafter provided, make bye-laws for the inspection of every place within the prescribed limits used for any of the purposes mentioned in Section CII., and for the management and conduct of such business, whether the same be newly established or not, in such manner as they may think necessary and proper in order to prevent or diminish the noxious or injurious or offensive effect thereof.

Burial and Burning grounds to be registered.

CV. The Commissioners may, if they think fit, cause a survey and measurement to be made of every burial ground, and every place used as such; and every such place and every burning ground existing at the time of the passing of this Act, shall, within three months after this Act shall come into operation, be registered by the owner or the person having the control thereof, or, if there be no owner or person authorized to control the same, by order of the Commissioners, in a book to be kept by them for that purpose; and whoever, after the expiration of the said time, knowingly buries or burns, or causes, procures, or suffers to be buried or burned any corpse in any ground other than such registered burial or burning ground, shall be liable to a penalty not exceeding one hundred Rupees.

No vault or burial or burning place henceforth to be constructed without leave of Commissioners.

CVI. No vault or grave shall be made within the walls of, or underneath any church or chapel or other place of public worship built after the passing of this Act; and no burial or burning ground, whether public or private, shall be opened, made, or formed after the passing of this Act, otherwise than by or under the authority of the Local Government without a license describing the extent and boundaries thereof first obtained from the Commissioners, who are hereby empowered, at their discretion, from time to time, to grant such licenses; and whoever shall bury or burn, or cause, permit, or suffer to be buried or

burned, any corpse in any vault, grave, or burial or burning ground opened, made, or formed without such license, or contrary to the terms thereof, shall be liable to a penalty not exceeding five hundred Rupees.

Commissioners to issue certificates prohibiting improper burial places.

CVII. If, upon the evidence of competent persons, the Commissioners, with the sanction of the Local Government, shall certify, in manner hereinafter provided, that any burial ground or place of burial, or any place used for the burning of corpses, is in such a state as to be dangerous to the health of persons living in the neighbourhood thereof, or that any church or other place of public worship is dangerous to the health of persons frequenting the same, by reason of the state of the vaults or graves within the walls of or underneath the same, or in any church-yard or burial-ground adjacent thereto, and shall also certify that a fitting place for interment or burning (as the case may be) exists within a convenient distance, and is available, it shall not be lawful, after a time (not less than two months, to be named in such certificate), to bury or burn, or permit or suffer to be buried or burned, any corpses in, upon, within, or under the ground, church, or place of worship to which the certificate relates, except in so far as may be allowed by such certificate; and whoever, after due publication of such certificate as hereinafter provided, buries or burns, or causes, permits, or suffers to be buried or burned, any corpse contrary to this enactment, shall be liable to a penalty not exceeding two hundred Rupees. Provided always, that every such certificate shall be published in the Government Gazette (if any) and in one or more of the public newspapers, and that a translation thereof in the native languages chiefly in use in the Town or Station to which it relates, shall, in the case of a burial or burning ground, be affixed conspicuously on some part of the said ground.

Proviso.

Commissioners may, in certain cases, permit interment in churches, &c.

CVIII. Notwithstanding any such certificate as in the preceding Section mentioned, where by usage or otherwise there is, at the time of the passing of this Act, any right of interment in or under any church or chapel, or in any vault of such church or chapel, or of any church-yard, burial-ground, or place of burial affected

by such certificate, or where any exclusive right of interment, or any exclusive right to ground for the purpose of interment, has been purchased or acquired before the passing of this Act, it shall be lawful for the Commissioners, if, on application made to them, they are satisfied that the exercise of such right of the use of such ground will not be injurious to health, to grant a license for such exercise or use during such time and subject to such conditions and restrictions as they may think fit.

Commissioners may provide places to be used as burial or burning grounds.

CIX. The Commissioners may from time to time, out of the funds available for the purposes of this Act, with the consent of the Local Government, provide fitting places to be used as burial or burning grounds.

Commissioners to make bye-laws for regulation of burial and burning grounds.

CX. The Commissioners may, in manner hereinafter provided, make bye-laws for the inspection and regulation of burial and burning grounds, and may thereby prescribe rules as to the depth of graves and places of interment; and generally as to all matters connected with the good order of burial and burning grounds, due regard being had to the religious usages of the several classes of the community.

Registry of deaths.

CXI. The Commissioners shall, upon such information as they may be able to obtain, cause to be registered the name, sex, age, religion, residence, and cause of death of every person whose body is brought to any of the said burial or burning grounds, and also, so far as is practicable, the like particulars of every other person who dies within the said Towns and Stations.

Power to enter upon lands for the purposes of this Act.

CXII. The Commissioners shall, for the purposes of this Act, have power, by themselves or other officers, to enter at all reasonable hours in the day-time into and upon any building or land as well for the purpose of making any survey or inspection as for the purpose of executing any work authorized by this Act to be executed by them, without being liable to any legal proceedings or molestation whatsoever on account of such entry, or of any thing done in any part of such building or land in pursuance of this Act. Provided that, except when herein otherwise provided, the Commissioners or their

Proviso.

officers shall not enter upon any building or land which may be occupied at the time, unless with the consent of the occupier thereof, without previously giving the said occupier twenty-four hours' notice of his or their intention to do so.

Power to Commissioners to enter on lands adjacent to works.

CXIII. The Commissioners, or their officers or servants may enter upon the land of any person adjoining to, or being within the distance of one hundred yards of any works by this Act authorized to be made, for the purpose of depositing upon such land, any soil, gravel, sand, lime, brick, stone, or other materials, or for any other purposes connected with the formation of the said works, without making any previous payment, tender, or deposit, doing as little damage as may be in the exercise of the several powers hereby granted to them, and making compensation for such temporary occupation or temporary damage of the said land to the owner and occupier thereof, from time to time, and as often as any such temporary occupation shall be taken or any such temporary damage done, and making compensation to the owner also for the permanent injury (if any) to such land; and if any dispute shall arise touching the amount or apportionment of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses. Provided that before the Commissioners make any such temporary use as aforesaid of the land adjoining or lying near to the said works, they shall give fourteen days' notice of their intention to the owners and occupiers of such land, and shall set apart, by sufficient fences, so much of the land as shall be required to be used as aforesaid, from the other land adjoining thereto.

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Penalty for obstructing Commissioners in their duty.

CXIV. Whoever at any time obstructs or molests the Commissioners, or any of their officers or workmen, or any person employed by them or with whom they may have contracted under the provisions of this Act, in the performance and execution of their or his duty or of any thing which they are respectively empowered or required to do by virtue or in consequence of this Act, or removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorized by this Act, shall be liable to a penalty not exceeding

fifty Rupees, or in the discretion of the Magistrate, before whom he is convicted, to imprisonment, for any term not exceeding three months.

Powers to be exercised by the Commissioners when constructing drains and aqueducts without the local limits of the jurisdiction of Supreme Courts.

CXV. For the purpose of constructing aqueducts for bringing water into any of the Towns of Calcutta, Madras, and Bombay from any place without the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature, or for the purpose of making sewers or drains to communicate with or empty themselves into any public sewer, lake, stream, canal, or water-course without the said limits, it shall be lawful, whenever a plan for any such aqueduct, sewer, or drain shall have been approved by the Local Government, for the Commissioners and their officers, with such assistants as they may require, to exercise, in the construction of such aqueduct, sewer, or drain throughout the line of country through which the said aqueduct, sewer, or drain is to run, all the powers which, by this Act, it is lawful for them to exercise within the said local limits and which may be necessary for the construction of such aqueduct, sewer, or drain, without being subject to any action or molestation whatever for so doing; and it shall also be lawful for any Magistrate of any district through which the said aqueduct, sewer, or drain is to run, to exercise in respect thereof the like powers and jurisdiction within the limits of his own district as it is, by this Act, lawful for a Magistrate or two Magistrates (as the case may be) of any of the said Towns to exercise in respect of any work to be executed by the Commissioners within the said local limits.

Commissioners empowered to make bye-laws.

CXVI. The Commissioners may, from time to time, make such bye-laws as they think fit for the several purposes for which bye-laws are hereinbefore authorized to be made by them, and may from time to time repeal, alter, or amend any such bye-laws; provided such bye-laws be not repugnant to law or to the provisions of this Act; and for any breach of any, such bye-laws, the offender shall be liable to a fine not exceeding twenty Rupees, and, in case of a continuing offence, to a further penalty not exceeding ten Rupees for every day after notice of the offence from the Commissioners during which such offence is continued.

CXVII. No bye-law, or alteration of a bye-law shall have effect until the same is confirmed by the Local Government.

Bye-laws to be confirmed.

CXVIII. No bye-law, or alteration of a bye-law shall be confirmed until the same has been published in the Government Gazette (if any), or in one of the public newspapers for one month, during which period a copy of such proposed bye-law shall be kept at the office of the Commissioners, and all persons may, at reasonable times, inspect such copy without fee or reward.

Notice of confirmation.

CXIX. Such bye-laws when confirmed, shall be published in the Government Gazette (if any) and in one or more of the public newspapers, and a copy thereof, in English and in the vernacular languages chiefly in use, shall be painted or placed on boards which shall be hung up in some conspicuous part of the offices of the Commissioners.

Publication of bye-laws.

CXX. All Courts and Magistrates shall take judicial notice of such bye-laws when the same shall have been confirmed and published as aforesaid.

Bye-laws to be judicially noticed

CXXI. Copies of such bye-laws shall be transmitted to the Clerk of the Legislative Council, as soon as conveniently may be after the confirmation thereof; and no such bye-law shall have effect if disallowed by order of the Legislative Council. [Repealed by Act XVI., 1860.]

Copies to be transmitted to the Legislative Council.

CXXII. The Commissioners shall publish short particulars of the several offences for which any penalty is imposed by this Act, or by any bye-law made under this Act, and of the amount of every such penalty, and shall cause such particulars, in English and in the vernacular languages chiefly in use, to be painted or placed on boards, which shall be hung up in some conspicuous part of the office of the Commissioners.

Publication of penalties.

CXXIII. The Commissioners may enter into contracts with any persons for the execution of any works directed or authorised by this Act to be done by the Commissioners, or for any other things necessary for the purposes of this Act.

Power to Commissioners to make contracts.

CXXIV. The Commissioners may direct any prosecution for any public nuisance whatsoever, and may order proceedings to be taken for the recovery of any penalties and for the punishment of any persons offending against the provisions of this Act, and may order the expenses of such prosecution or other proceedings to be paid out of the funds applicable to the purposes of this Act.

Commissioners may direct prosecutions

CXXV. Nothing in this Act shall be construed to render lawful any act or omission on the part of any person which is, or but for this Act would be deemed to be, a nuisance at common law, nor to exempt any person guilty of a nuisance at common law, from prosecution or action in respect thereof. Provided that, if any person convicted of an offence under this Act, shall have paid the whole amount adjudged to be paid under such conviction, and the costs thereof, in every such case he shall be released from all further or other criminal, proceedings for the same offence.

Act not to affect nuisances at common law.

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CXXVI. No writ or process shall be issued out against or served upon the Commissioners or any of their officers, or any person acting under the direction of the Commissioners, for any thing done or intended to be done under the powers of this Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Commissioners or at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended Plaintiff, and of his attorney or agent in the cause; and upon the trial of any such action, the Plaintiff shall not be permitted to go into evidence of any cause of action except such as is stated in the notice so delivered, and unless such notice be proved, the Court shall find for the Defendant; and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards; and if any person to whom any such notice of action is given shall, before action is brought, tender sufficient amends to the complainant, such complainant shall not recover in any such action when brought; and if no such tender shall have been made, it shall be lawful for the

No writ or process to be issued against Commissioners or their officers until after one month's notice of cause of action, &c.

Defendant in such action, by leave of the Court where such action shall be pending, at any time before issue joined, to pay into Court such sum of money as he shall think fit, and thereupon such proceeding shall be had as in other cases where Defendants are allowed to pay money into Court.

Power to make compensation out of funds.

CXXVII. The Commissioners may make compensation, out of the funds applicable to the purposes of this Act, to all persons sustaining any damage by reason of the exercise of any of the powers vested in the Commissioners, their officers or servants, under and by virtue of this Act.

Mode of ascertaining compensation for land, &c

CXXVIII. When there is any hindrance to the acquisition by purchase of any land or building required for the purposes of this Act, the Local Government, upon the representation of the Commissioners and after such inquiry as may be thought proper, may declare that the land or building is needed for a public purpose, and may order proceedings for obtaining possession of the same for Government, and for determining the compensation to be paid to the parties interested, according to the laws now or hereafter to be in force for the acquisition of land for public purposes. And the Local Government may vest such land or building in the Commissioners on their paying the compensation awarded.

Power to sell lands

CXXIX. The Commissioners, with the consent of the Local Government, may sell any lands vested in them by virtue of this Act or required by them for the purpose thereof either together or in parcels, as they may find most convenient and advantageous, and the proceeds of such sale shall be applied to the purposes of this Act: and for carrying such sale into effect the Commissioners may execute a conveyance of the lands sold to the purchaser, and such conveyance shall be under the common seal of the Commissioners.

Power to sell old roads.

CXXX. Whenever any street or road hereby vested in the Commissioners shall be discontinued and stopped up under the provisions of Section VI. of this Act, the Commissioners, with the consent of the Local Government, may sell the land or such part thereof as shall not be required for the purposes of this Act.

Fees for licenses.

CXXXI. When any license is granted under the provisions of Section LXII., XCIII., or CIII. of this Act authorizing the use of any place for any of the purposes therein described, and when permission is given under Section XIX. for making any temporary erection, under Section XXXVI. for putting up any projection, the Commissioners may charge a fee for such license or permission; and the rates of the fees to be so charged shall be from time to time adjusted by the Commissioners with the sanction of the Local Government, provided that no such fee shall exceed the sum of fifty Rupees When permission or license is given for the temporary occupation of any ground belonging to the Commissioners under the provisions of Section LXXXVII. or Section LXXXIX., the Commissioners may charge rent for such ground, according to the time the occupation may continue, at such rates as may from time to time be sanctioned by the Local Government. All sums received by the Commissioners under this Section shall be applied by them to the purposes of this Act.

Damages and expenses, how to be determined.

CXXXII. In all cases where any damages, costs or expenses are by this Act directed to be paid, the amount of the same, in case of dispute, shall be ascertained and determined by two Magistrates, except in the Town of Bombay, and in the Town of Bombay by the Court of Petty Sessions; provided that, if there be only one Magistrate acting for any Town or Station, such ascertainment and determination may be made by a Magistrate and a Justice of the Peace.

Method of proceeding before Magistrates in questions of damages, &c.

CXXXIII. In any case referred to the determination of two Magistrates under this Act, it shall be lawful for any Magistrate, upon the application of either party, to summon the other party to appear before any two Magistrates, or before a Magistrate and a Justice of the Peace, as the case may be, and in the Town of Bombay before the Court of Petty Sessions, at a time and place to be named in such summons; and every such summons shall be served by delivering the original or a copy thereof to the person summoned or by leaving the same at his usual place of abode with some adult male member or servant of his family. Upon the appearance of the parties, or in the absence of any of them,

upon proof of due service of the summons, it shall be lawful for such Magistrates or such Magistrate and Justice, or such Court to hear and determine such question, and for that purpose, to examine such parties or any of them and their witnesses on oath; and the cost of every such inquiry shall be in the discretion of such Magistrates, or such Magistrate and Justice or such Court, and they shall determine the amount thereof. Provided that, in the event of a difference of opinion between such Magistrates, or such Magistrate and Justice, the case shall be referred to the determination of a third Magistrate, or (if there be no such Magistrate) of any Justice of the Peace to be selected by them.

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CXXXIV. If the amount of damages, costs, or expenses ascertained in the manner above described be not paid by the party liable to pay the same within seven days after demand, such amount may be recovered under a warrant from the said Magistrates or either of them or the said Magistrate and Justice of the Peace or either of them, or from the Court of Petty Sessions, as the case may be, by distress and sale of the goods and chattels of such party, and the overplus, arising from the sale thereof, after satisfying such amount and the costs of the distress and sale, shall be returned on demand to the party whose goods shall have been distrained.

Recovery of damages by distress.

CXXXV. Instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of any expenses, charges, or damages awarded under the provisions of this Act, the Commissioners may sue the person liable to pay the same in any Court of competent jurisdiction.

Commissioners may sue in competent Court instead or on failure of distress.

CXXXVI. No distress levied by virtue of this Act, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity, may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Distress not unlawful for want of form.

CXXXVII. Every fine or penalty imposed under or by virtue of this Act, or any bye-law made in pursuance thereof, may be recovered by summary proceeding before a Magistrate upon information exhibited by order of the Commissioners.

Recovery of fines and penalties.

CXXXVIII. The Magistrate by whom any fine or penalty is imposed by virtue of this Act may award not more than one-half thereof or any less sum to the informer, and shall order the remainder, or if he make no award to the informer, the whole of such fine or penalty to be paid to the Commissioners, to be by them applied to the purposes of this Act.

How fines and penalties are to be applied.

CXXXIX. No person shall be liable to any fine or penalty under this Act, for any offence made cognizable before a Magistrate, unless the complaint respecting such offence shall have been made before a Magistrate within three months next after the commission of such offence.

No person liable to fine or penalty unless complaint made within three months after offence committed.

CXL. If through any act, neglect, or default, on account whereof any person shall have incurred any penalty imposed by this Act, any damage to the property of the Commissioners, shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty; and the amount of such damage shall, in case of dispute, be determined by the Magistrate by whom the party incurring such penalty shall have been convicted; and on non-payment of such damage on demand, the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

Damage to the Commissioners' property to be made good in addition to penalty.

CXLI. It shall be the duty of all Police Officers to give immediate information to the Commissioners of any offence committed contrary to the provisions of this Act. Any Police Officer may arrest any person committing in his view any offence against this Act if the name and address of such person be unknown to him; and such person may be detained at the Station House until his name and address shall be ascertained.

Police Officers to report offence to Commissioners and to arrest unknown offenders.

CXLII. This Act shall commence and take effect from and after the 1st of November, 1856.

Commencement of Act.

SCHEDULE.

LAWS REPEALED.

Calcutta.

Act No. XII. of 1837.

Act No. XXII. of 1847, entitled "An Act to enable the Commissioners who may be appointed under Act XVI. of 1847, to purchase and hold real or personal property for the improvement of the Town of Calcutta."

Act No. XII. of 1852, entitled "An Act to repeal Act No. II. of 1848, and to confer certain powers on the Commissioners for the improvement of the Town of Calcutta," except Section L. of the said Act.

Madras.

A Rule, Ordinances, and Regulation, entitled "A Regulation for the cleanliness of the Town of Madras."

Bombay.

So much of Rule, Ordinance, and Regulation III., 1812, entitled "A Rule, Ordinance, and Regulation to restrain the construction of all Buildings within the Town walls likely to endanger the defence of the Garrison, to remove and prevent encroachments that may exist or be attempted to be made in the streets and high-roads, both within and without the Town walls, and generally throughout the Island of Bombay, and to prevent the introduction of articles of a combustible nature within the Garrison," as is now in force.

So much of Rule, Ordinance, and Regulation III., 1815, entitled "A Rule, Ordinance, and Regulation for enlarging, explaining, and amending Rule, Ordinance, and Regulation I., and Rule, Ordinance, and Regulation III. of 1812, the former passed by the Honourable the Governor in Council on the 25th March, 1812, and registered in the Court of the Honourable the Recorder on the 20th of May following, and the latter passed by the Honourable the Governor in Council on the 4th of November, 1812, and registered in the same Court on the 26th day of December next ensuing, and for other beneficial purposes," as is now in force.

Sections 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 22, 23, 24, 25.

26, 27, 28, 29, 30, 31, 32, 33, and 34, of Act No. XXVIII. of 1839, entitled "An Act for the regulation of Buildings in the Islands of Bombay and Colaba."

Act No. XIV. of 1841, entitled "An Act for the better regulation of Markets in the Islands of Bombay and Colaba."

Act No. XIV. of 1842, entitled "An Act for giving greater facility in the abatement and prosecution of nuisances in and through the Towns and Islands of Bombay and Colaba."

Repealed by Act VI., 1863, of the Bengal Council, so far as it relates to Calcutta; by Act II., 1865, of the Bombay Council, as respects Bombay; and by Act IX., 1865, of the Madras Council, as respects Madras. It still remains in operation in the Straits' Settlements.

HINDOO WIDOW MARRIAGE.

Act No. XV. of 1856.

[*Received the assent of the G. G. on the 25th July*, 1856.

Recites existing state of administration of law on this subject and prevalent belief that it is not in accordance with Hindoo religion, also desire that all may act as their consciences dictate; justice and propriety of removing legal obstacles.

1. No marriage between Hindoos invalid or issue illegitimate, by reason of previous marriage or betrothal to another who is since deceased.

2. Widow's rights in prior husband's property (except where express permission to re-marry) to cease on second marriage, as though she had died.

3. Where no testamentary guardian of children by the prior marriage, how and by what proceeding guardian shall be appointed.

4. This Act not to render a childless widow capable of inheriting, who would otherwise be incapable of inheriting.

5. Except as hereinbefore provided, a widow shall not by re-marriage forfeit property.

6. Ceremony which would be sufficient in case of an unmarried girl shall be sufficient on re-marriage of a widow.

7. Re-marriage of a widow who is a minor, and whose first marriage was not consummated, not to be without consent of relatives, as specified. Abetting a marriage contrary to this section punishable with imprisonment not exceeding one year, or with fine, or with both; and marriages contrary to this section may be declared void by Court of law.

Consent to be presumed until contrary proved.

An Act to remove all legal obstacles to the marriage of Hindoo Widows.

Preamble.

Whereas it is known that, by the law as administered in the Civil Courts established in the Territories in the possession and under the Government of the East India Company, Hindoo Widows, with certain exceptions, are held to be, by reason of their having been once married, incapable of contracting a second valid marriage and the offspring of such widows by any second marriage, are held to be illegitimate and incapable of inheriting property: and whereas many Hindoos believe that this imputed legal incapacity, although it is in accordance with established custom, is not in accordance with a true interpretation of the precepts of their religion, and desire that the Civil law administered by the Courts of Justice shall no longer prevent those Hindoos who may be so minded from adopting a different custom, in accordance with the dictates of their own conscience: and whereas it is just to relieve all such Hindoos from this legal incapacity of which they complain; and the removal of all legal obstacles to the marriage of Hindoo Widows will tend to the promotion of good morals and to the public welfare, it is enacted as follows:

Marriage of Hindoo widows legalized.

I. No marriage contracted between Hindoos shall be invalid, and the issue of no such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, any custom and any interpretation of Hindoo law to the contrary notwithstanding.

Rights of widow in deceased husband's property to cease on her re-marriage.

II. All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property with no power of alienating the same, shall, upon her re-marriage, cease and determine as if she had then died; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.

III. On the re-marriage of a Hindoo widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband, the guardian of his children, the father or paternal grandfather, or the mother or paternal grandmother, of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in Civil cases in the place where the deceased husband was domiciled at the time of his death for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who, when appointed, shall be entitled to have the care and custody of the said children, or of any of them, during their minority, in the place of their mother; and in making such appointment the Court shall be guided, so far as may be, by the laws and rules in force touching the guardianship of children who have neither father nor mother. Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother, unless the proposed guardian shall have given security for the support and proper education of the children whilst minors.

Guardianship of children of deceased husband on the re-marriage of his widow.

IV. Nothing in this Act contained shall be construed to render any widow, who, at the time of the death of any person leaving any property, is a childless widow, capable of inheriting the whole or any share of such property, if, before the passing of this Act, she would have been incapable of inheriting the same by reason of her being a childless widow.

Nothing in this Act to render any childless widow capable of inheriting.

V. Except as in the three preceding Sections is provided, a widow shall not, by reason of her re-marriage, forfeit any property, or any right to which she would otherwise be entitled; and every widow who has re-married shall have the same rights of inheritance as she would have had, had such marriage been her first marriage.

Saving of rights of widow marrying, except as provided in the three preceding Sections.

VI. Whatever words spoken, ceremonies performed, or en-

Whatever ceremonies now constitute a valid marriage shall have the same effect on the marriage of a widow.

gagements made, on the marriage of a Hindoo female who has not been previously married, are sufficient to constitute a valid marriage, shall have the same effect if spoken, performed, or made on the marriage of a Hindoo widow; and no marriage shall be declared invalid on the ground that such words, ceremonies, or engagements are inapplicable to the case of a widow.

Consent to re-marriage of a widow who is a minor.

VII. If the widow re-marrying is a minor whose marriage has not been consummated, she shall not re-marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or failing all these, of her elder brother, or failing also brothers, of her next male relative.

Punishment for abetting marriage made contrary to this Section.

All persons knowingly abetting marriage made contrary to the provisions of this Section shall be liable to imprisonment for any term not exceeding one year, or to fine or to both.

Effect of such marriage.

And all marriages made contrary to the provisions of this Section may be declared void by a Court of law.

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Provided that, in any question regarding the validity of a marriage made contrary to the provisions of this Section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated. In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.

PORT DUES AND FEES.

Act No. XVI. of 1856.

[*Received the assent of the G. G. on the 9th August*, 1856.

Extends Act 22 of 1855, sec. 41, for another year.

An Act to authorize the levy of Port dues and Fees at the present rates for a further period of twelve months.

Extended for six months by Act XXVIII., 1857, since expired, and various Acts passed since for different ports. [See Note to Act XXII., 1855. *Anti* p. 356.]

CRIMINAL PROCESS.

ACT No. XVII. OF 1856.

[*Received the assent of the G. G. on the 23rd August*, 1856.

Recites Act VII. of 1854, and expediency of providing similar means for execution of other criminal process.

1. All criminal process of a Magistrate enforceable in the jurisdiction of any other Magistrate within Company's territories upon being endorsed by him. Provided, special grounds must be laid for summons of defendant or witness resident beyond a Magistrate's jurisdiction.

2. The Magistrate who issues, not the Magistrate who endorses, liable for irregularity.

3. Act VII. of 1854 and this Act, to apply to process of Magistrates beyond the limits of the Supreme Courts.

If Magistrate within those limits object, he shall refer to a Supreme Court Judge, who shall deal therewith according to Act XXIII. of 1840.

4. Interpretation clause.

An Act to provide for the execution of Criminal process in places out of the jurisdiction of the authority issuing the same.

Preamble.

Whereas by Act VII. of 1854 certain provisions were made for the execution, in any part of the territories under the Government of the East India Company, of warrants of arrest issued by competent officers in any other parts thereof, and whereas it is expedient that similar means should be provided for the execution as aforesaid of all other Criminal process issued as aforesaid, it is enacted as follows:

All Criminal process may be executed in any part of India, after having been endorsed by the Magistrate of the place where it is to be executed.

I. Any Criminal process whatever, including summonses, subpœnas, and search warrants, as well as warrants of arrest, issued by any Magistrate having Jurisdiction in any part of the territories under the Government of the East India Company, may be executed within the jurisdiction of any other Magistrate having jurisdiction in any part of the said territories, whether in the same Presidency or not, upon having a written authority under the hand and seal of the Magistrate within whose jurisdiction it is to be executed previously endorsed thereon. Provided that no summons or subpœna shall be issued by a Magistrate to compel the attendance of a defendant or witness from any place beyond the local limits of his jurisdiction, unless special ground shall be

proved to the satisfaction of the Magistrate in support of the application, which grounds shall be recorded before the summons or subpœna is issued.

Magistrate endorsing process not liable for illegality in the issuing thereof.

II. The Magistrate endorsing any process under this Act shall not be liable to any action or other proceeding in consequence of any illegality in the issuing of the process; but any Magistrate illegally or improperly issuing the same shall be liable for any act in pursuance of the endorsement, in the same manner, and to the same extent only, as if the process had been executed within his own jurisdiction.

Provisions of Act VII., 1854, and of this Act applicable to process executed within limits of Supreme Courts.

III. The provisions of Act VII. of 1854 and of this Act do and shall extend and apply to any warrant or other process of any Magistrate having jurisdiction in the Territories beyond the local limits of the Supreme Courts of Calcutta, Madras, and Bombay, respectively, which shall be executed within those limits.

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Provided that if a Magistrate having jurisdiction within those limits shall object to endorse any warrant or other process on account of any apparent defect therein, or for any other cause, he shall refer such warrant or other process to a Judge of the Supreme Court, who shall deal therewith according to the provisions of Act XXIII. of 1840.

Interpretation.

IV. The word "Magistrate," as used in this Act, includes a Joint Magistrate, or any person lawfully exercising the powers of a Magistrate, and also a Justice of the Peace.

Repealed by Act XVII., 1862, as to parts in which the Code of Criminal Procedure is in operation.

CALCUTTA.—STAMP DUTY.

Act No. XVIII. of 1856.

[*Received the assent of the G. G. on the 23rd August,* 1856.

1. Parts of Reg. 12 of 1826, sec. 6, and Calcutta Ordinance of 14th June, 1827, modified as follows:—

2. Collection of Stamp duty within Calcutta ordinarily in charge of Collector of Calcutta.

3. Collector of Calcutta may employ a Deputy for any of his duties under said Reg. or Act XI. of 1849, or Act XXIII. of 1850, and all rules and laws as to office of Deputy Collector to be in force within Calcutta.

An Act relating to the administration of the Public Revenues in the town of Calcutta.

Preamble.

Whereas it is expedient that the Collector of Calcutta should have charge of the collection of the Stamp duty within the town of Calcutta, and that he should have power to employ any Deputy Collector subordinate to him, in the performance of any part of the duties of his office, it is enacted as follows:

I. The Regulations herein modified are repealed by Act XXXVI., 1860, sec. 1.

Collection of Stamp duty in Calcutta to be ordinarily in charge of the Collector.

II. The collection of the Stamp duty within the Town of Calcutta shall ordinarily, and unless the Lieutenant-Governor of Bengal shall otherwise direct, be in the charge of the Collector of Calcutta.

Collector may entrust any part of his duties to his Deputy.

III. It shall be lawful for the Collector of Calcutta to employ any Deputy Collector subordinate to him, in the performance of any part of the duties of his office under the said Regulation, or under Act XI. of 1849, or Act XXIII. of 1850; and all Rules, Regulations, and Acts, relating to the office of Deputy Collector shall be of the same force within the Town of Calcutta as in other parts of the Territories subject to the Presidency of Fort William in Bengal.

EMIGRATION.

Act No. XIX. of 1856.

[*Received the assent of the G. G. on the* 19*th Sept.*, 1856.

Recites that emigration is authorized with qualifications, and expediency of enabling G. G. in Council to suspend, for specified reasons, emigration to particular places.

1. When G. G. in Council has reason to believe proper measures with regard to emigrant Natives of India not taken in any place, may suspend emigration to that place by notification in "Calcutta Gazette."

2. Notification not to be retrospective.

3. During suspension under such notification, all laws prohibitory of emigration shall remain in force as regards the place specified in notification.

4. How and when suspension to be recalled and emigration re-permitted to prohibited place.

An Act to enable the Governor General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native Labourers.

Repealed by Act XIII., 1864.

BENGAL.—MOFUSSIL TOWN POLICE.

Act No. XX. of 1856.

[*Received the Assent of the G. G. on the* 14*th Nov.*, 1856.

Recites expediency of better providing for appointment and maintenance of chowkeydars.

1. Laws repealed. Existing assessment to remain until altered.

2. This Act to have effect wherever Reg. 22 of 1816, in force, and in cities, stations, towns, suburbs and bazaars, to which Local Government may extend it by Notification in Gazette. Not to extend where there is not a Police Jemadar nor to an Agricultural village.

3. Government may, by notification, unite towns or parts of towns, &c., with others.

4. Government may define limits of any town, &c., for purposes of this Act.

5. Where house let in lodgings, receiver of rent from the lodgers is occupier of the house for purpose of this Act.

6. Magistrate may affix name to any street or place and number to every house. Removing or obliterating name and number; penalty, fine to twenty rupees.

7. Magistrate to determine number of chowkeydars, but not exceeding one to every twenty-five houses.

8. Chokeydars may be of different grades, and wages determinable by Magistrate.

9. Magistrate to determine total amount to be raised in any town, &c.

10. Tax may be either according to the property to be protected or a rate according to annual value of the house or ground. Local Government to determine on report of Magistrate or Commissioner, whether it shall be such assessment or rate.

11. If it be an assessment, aggregate sum not to exceed an average of two annas per mensem for each house, not to exceed, for any house, pay of lowest chowkeydar.

12. Annual value of house or ground to be computed on gross annual rent. Ground used for trade liable, but arable or pasture land not liable

13. Magistrate may exempt pauper occupier.

14. Magistrate to appoint punchayet of five or three respectable neighbours. Mode of appointment.

15. Punchayet to assess once a year, according to rules in Magistrate's requisition: list in detail to be made accordingly, as specified. Form of requisition.

16. Punchayet, when required, to revise former list.

17. List to be forwarded to Magistrate, who is to revise, amend and settle.

18. Magistrate to sign and publish list. Mode of publication.

19. Assessment in force, unless altered, for one year and until new one made. Course, when occupier changed during the year. Revised assessment to be as new assessment. If no new assessment for year, previous year's list to be, and to be published as, assessment for current year.

20. Appeal as to liability may be on unstamped paper. Magistrate's decision final. Time for appeal, one month from notification, unless extended for cause by Magistrate.

21. Commissioner may, for reasons assigned, direct general revision of assessment by Magistrate.

22. Magistrate may at any time, for reasons assigned, direct a revision of assessment by the punchayet.

23. Whenever assessment revised, notification of revised list to be published to which objections may be made by appeal.

24. Refusing or omitting, for 15 days, to act on punchayet, without satisfactory grounds or providing approved substitute; penalty, fine to fifty rupees.

25. If majority of punchayet refuse for fifteen days to perform duties; Magistrate may revise and enforce the assessment; punchayet may resume their office, but not so as to invalidate what Magistrate did.

26. No one bound to act on punchayet unless resident of the district.

27. Punchayet appointed for one year. None compellable to reserve until expiry of three years: but any may be re-appointed.

28. Magistrate may, on application of majority of ratepayers, remove any member of punchayet.

29. Magistrate may supply vacancy, actual or virtual, in punchayet. Mode of appointment.

30. Punchayet to inform Magistrate of misconduct of chowkeydar, also of vacancy among chowkeydars.

31. In large towns Magistrate may appoint sudder punchayet to assist him.

32. Magistrate to appoint and register chowkeydars.

33. With approval of Commissioner, Magistrate may appoint jemadars and inspectors, not being more than one jemadar to fifteen and one inspector to sixty chowkeydars.

34. With approval of Commissioner, Magistrate may appoint tax-collectors or darogahs and other servants to carry out this Act; taking security from tax-collectors.

35. Magistrate may incur expenses for stationery, dresses, &c.

36. Magistrate may, with sanction of Commissioner, appropriate surplus assessment in cleansing, lighting or other improvements.

37. Tax darogahs to prepare from assessment lists a detailed register of rate-payers, to be attested by Magistrate or his assistant.

38. As soon after tenth of each month as possible to collect tax for current month; but with sanction of Commissioner, collection may be quarterly, viz., in last month of each quarter.

39. Collections to be remitted to Magistrate and to form a separate fund, to be called "chowkeydaree fund."

40. Tax darogah to prepare all summonses, &c., to make returns thereto and keep account of distresses and sales.

41. As soon after the 20th of each month as possible, tax darogah to send to Magistrate detailed statement of defaulters.

42. Thereupon Magistrate to issue summonses.

43. If defaulter fail to appear or to show that no arrear due, Magistrate may issue to tax darogah warrant of distress.

44. How distress and sale to be made.

45. Tax darogah, or other person appointed under this Act, or police officer purchasing at such sale, penalty, fine to fifty rupees and confiscation of property purchased.

46. Where no sufficient distress within the district, warrant to be issued for distress elsewhere.

47. Tools and implements of trade alone exempted from distress. Defaulter to indemnify third party whose goods distrained. No distress for arrear due more than six months.

48. Obstructing tax darogah in his duties, concealing or assisting so conceal property liable to distress; penalty fine to fifty rupees.

49. Magistrate how to proceed in case of misconduct of tax-darogah or other officer.

50. Chowkeydars, jemadars, and inspectors to be police officers, and subordinate to police daragah.

51. Chowkeydars to wear badges.

52. Chowkeydars, &c., to arrest, without warrant, heinous offenders or those suspected of being—to prevent obstruction and nuisances—to give intelligence to police darogah of arrival of suspected persons—to stop certain suspected persons, as specified.

53. Not assisting a police officer to arrest, when called on; penalty, fine to fifty rupees or imprisonment not exceeding two months.

54. Muster and payment of Chowkeydars.

55. Chowkeydars, &c., liable for misconduct, to fine of half a month's wages, or imprisonment not exceeding six months.

56. Magistrate may suspend or dismiss any officer.

57. All fines to go to chowkeydaree fund.

58. Who to act as Magistrate under this Act.

59. Magistrate subject to Commissioner where proceedings subject to control of Local Government

60. Act not to apply to Calcutta.

61. Interpretation clause.

An Act to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs, and Bazaars in the Presidency of Fort William in Bengal.

Preamble.

Whereas it is expedient to make better provision for the appointment and maintenance of Police Chowkeydars in cities, towns, stations, suburbs, and bazaars in the Presidency of Fort William in Bengal, it is enacted as follows:

Laws repealed.

I. Regulation XXII., 1816, Regulation VII., 1817, Section VI., Regulation III., 1821, and Section IV., Regulation II., 1832, of the Bengal Code, and Act XV. of 1837, are hereby repealed, except as to any Act which shall have been done, or any liability which shall have been incurred, before the passing of this Act. Provided that the monthly assessment levied, under Regulation XXII., 1816, and Act XV. of 1837, in any city or station at the time of the passing of this Act, shall continue to be levied until the same shall be revised and altered under the provisions of this Act.

Existing assessment to continue to be levied until revised according to this Act.

To what places the Act shall apply.

II. The provisions of this Act shall have effect in the cities and stations in which the said Regulation XXII., 1816, has heretofore been in force, and in every other city, station, town, suburb, and bazaar in the said Presidency to which the Local Government at any time may extend the same by Notification in the Official Gazette. Provided always, that this Act shall not be extended to any city, town, suburb, or bazaar, unless there be therein (or in some other city, town, suburb, or bazaar with which the same may be united as hereinafter provided) a Police Station under an officer of a grade not below that of Jemadar, nor to any agricultural village.

Proviso.

Unions may be formed.

III. The Government may, by Notification to be published in the Official Gazette, unite, for the purposes of this Act, any city, town, suburb, station, or bazaar, or any part or parts of a city, town, suburb,

station or bazaar, with any other city, town, suburb, station, or bazaar, or part or parts of a city, town, suburb, station, or bazaar; and in such case all the provisions of this Act applicable to a city, town, suburb, station, or bazaar, shall apply to such union.

Government may define limits of cities, towns, &c.

IV. For the purposes of this Act the Local Government may define and declare the limits of any city, town, suburb, station, baazar, or union, and all occupiers of houses within any such city, town, suburb, station, bazaar, or union as aforesaid, or within such limits as shall be so defined as aforesaid shall be liable to be assessed or rated according to the provisions of this Act for the purpose of maintaining the Chowkeydars appointed to be maintained in such city, town, station, suburb, bazaar, or union.

Houses let to lodgers, how to be assessed.

V. If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments for such persons or lodgers, or travellers, shall, for the purposes of this Act, be deemed to be the occupier of such house.

Penalty for removing, &c., name of street or number of house.

VI. The Magistrate may cause a name to be given to any street, and affixed in such place or places as he may think fit, and may also cause a number to be affixed to every house in any street or mohulla, for the purpose of identifying such house; and if any person shall wilfully remove, obliterate or destroy such name or number, he shall be liable, on conviction by a Magistrate, to a fine not exceeding Twenty Rupees.

Magistrate to determine number of Chowkeydars.

Proviso.

VII. The Magistrate shall determine the number of Chowkeydars to be maintained in any city, town, or other such place as aforesaid; but the number of Chowkeydars so to be maintained shall not exceed one to every twenty-five houses.

Grades and wages of Chowkeydars.

VIII. The Chowkeydars appointed under this Act may be of different grades, and the wages to be paid to the several grades shall be determined by the Magistrate.

Magistrate to determine the sum to be raised annually.

IX. Magistrate shall determine the total amount required to be raised in any year in any city, town, or other such place as aforesaid, for the

purpose of maintaining the Chowkeydars appointed to be maintained therein, and for the purposes specified in Sections XXXIII., XXXIV., XXXV., and XXXVI. of this Act, together with such sum as the Magistrate may consider necessary to provide against the contingency of losses from defaulters in the current year, and the amount of losses, if any, actually sustained from defaulters in the preceding year. [See Note at end of Act.]

Nature of the tax to be levied.

X. The tax to be levied in any city, town, or other place as aforesaid, for the purposes of this Act, may be either an assessment according to the circumstances and the property to be protected of the persons liable to the same, or a rate on houses and grounds according to the annual value thereof. The Local Government, on the report of the Magistrate and Commissioner of Circuit, shall determine in each case whether the tax to be levied shall be such assessment or such rate. [See Note at end of Act.]

Limitation of tax.

XI. If the tax be an assessment according to the circumstances and the property to be protected of the persons liable to the same, the aggregate sum to be raised by such tax shall not exceed the average rate of two annas per mensem for each house, and the amount assessed in respect to any one house shall not be more than the pay of a Chowkeydar of the lowest grade. If the tax be a rate on houses and grounds, it shall not exceed five per centum of the annual value thereof. [See Note at end of Act.]

Rate how to be ascertained.

XII. For the purpose of making a rate under this Act, the annual value of the houses and grounds liable to the rate shall be computed and ascertained upon an estimate of the gross annual rent at which the same might reasonably be expected to let from year to year. Grounds used for purposes of trade shall be liable to the rate, but grounds used for the purpose of cultivation or for depasturing cattle shall not be liable. [See Note at end of Act.]

Magistrate may exempt occupiers unable to pay the assessment or rate.

XIII. The Magistrate may, at his discretion, exempt from the assessment or rate, or may relieve from the payment of his assessment or rate, any occupier who may be unable from poverty to pay the same. [See Note at end of Act.]

Constitution of punchayets.

XIV. For the purposes hereinafter mentioned the Magistrate shall constitute and appoint a punchayet for each such city, town, or other place as aforesaid, or, when he may see fit to divide any such city, town, or place into convenient divisions, for each division thereof, and shall issue a sunnud of appointment, specifying the names, residence, business, or other description of the persons appointed and the period for which the appointmet is made. Every punchayet shall consist of three or five respectable persons residing or carrying on business in or near to any such city, town, or other place, or in or near to any such division thereof. Provided that, instead of any one such person, the Magistrate may appoint any person whom he may think fit to be a member of the punchayet, notwithstanding such person may not reside or carry on business in or near to such city, town, or other place, or in or near to any such division thereof.

Magistrate may appoint a person not residing in the place to be a member of punchayet.

Duties of punchayet.

XV. The punchayet so appointed, or the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition, an assessment or rate upon the several persons liable to be assessed or rated in respect of their occupation of property within the district (whether city, town, or other place as aforesaid, or any division thereof) for which the punchayet shall be appointed, and shall enter the same in a list which shall specify the names of the several occupiers of property within the district liable to be assessed or rated under the provisions of this Act, the trade, business, or other description of such occupier, the property occupied, and the amount payable monthly by such occupier. If the tax be a rate on the annual value of the property occupied such annual value and the total amount of the annual rate shall also be specified. The requisition of the Magistrate to the punchayet to make out such list shall be in the form marked A. or B., as the case may be, set forth in the Appendix to this Act annexed, or to the like effect.

Form of Magistrate's requisition.

Punchayet may revise existing assessment or rate.

XVI. The punchayet shall, if required by the Magistrate so to do, instead of making a new assessment or rate, revise and amend the assessment or rate then in force.

XVII. When an assessment or rate shall have been made or revised, as the case may be, the punchayet shall forward to the Magistrate the list containing the same; and the Magistrate shall revise, and, if necessary, amend and settle it.

Magistrate may amend and settle assessment or rate as revised by the punchayet.

XVIII. When the assessment or rate shall have been settled, the Magistrate shall sign the list, and shall cause one copy thereof, together with a Notification prepared according to the form marked C. in the Appendix to this Act, or to the like effect, and written in the language of the Province in which the city, town, or place is situate, to be stuck up in some conspicuous place in the district for which the assessment or rate has been made; and another copy, together with a like Notification, at the nearest Police thanna; and shall also cause a third copy to be deposited in his own office.

Assessment or rate to be published.

XIX. Unless revised or corrected as hereinafter provided, every assessment or rate under this Act shall stand good for one whole year, and until a new one is made, and in case the occupier of any property included in any assessment or rate shall be changed before a new one is made, the new occupier shall be liable in respect of such property for any portion of the assessment or rate which shall have become payable during his occupation instead of the former occupier thereof; and after notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier. Every assessment or rate which shall be revised according to the provisions of Section XVI. shall be deemed a new assessment or rate. Provided always, that, if no new assessment or rate is made within the first three months of any year, the list of the previous year shall be re-published according to the provisions of Section XVIII. and shall thereupon be deemed to be the assessment or rate for the current year, and shall be open to appeal under the next succeeding Section.

Assessment or rate to stand good for one year.

Change of occupation before a new assessment or rate.

Revised assessment or rate to be deemed a new one.

Proviso.

XX. Any person assessed or rated, who shall be dissatisfied with his assessment or rate, or who shall dispute his occupation of any property, or his

Appeal from assessment or rate.

liability to be assessed or rated, may appeal on unstamped paper to the Magistrate, and the Magistrate, after making such inquiries as he deems necessary, by examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment or rate, or amend the same. In case the Magistrate confirm the assessment or rate, he may award costs against the appellant. The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment or rate, nor shall the liability of any person to be assessed or rated be questioned in any other manner or by any other Court. Provided that no appeal shall be received after the expiration of one month from the time of the notification of the assessment or rate prescribed by Section XVIII. or of the notification of the substitution of the name of an occupier under Section XIX. unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal.

Limitation of appeal.

XXI. The Commissioner of Circuit, with the consent of the Local Government, may at any time direct the Magistrate to revise the assessment or rate of any city, town, or other place as aforesaid, specifying the reasons which, in his opinion, render such revision necessary, and the Magistrate shall, according to such direction, revise and, if necessary, amend the same.

Commissioner of Circuit may direct revision of assessment or rate.

XXII. The Magistrate may require the Punchayet to revise the assessment or rate at any period during the year; but on every such occasion he shall address a written order to the Punchayet, specifying the reasons which render such revision necessary, and requiring an amended return within a stated period.

Magistrate may direct revision at any time of the year, for reasons to be stated.

XXIII. Whenever any assessment or rate is revised during the year, as provided in the two last preceding Sections, a revised list, together with a Notification, as prescribed in Section XVIII., shall be prepared and published in the manner therein directed. And all objections to such revised assessment or rate shall be made and dealt with in the manner prescribed in Section XX.

Publication of assessment or rate as revised under the two last Sections.

XXIV. If any person appointed a member of a Punchayet refuse to undertake the office, or omit to perform the duties thereof, and do not within fifteen days from the date of his appointment, show satisfactory grounds for his refusal or omission or provide such a substitute as the Magistrate approves, the Magistrate may fine such person in a sum not exceeding fifty Rupees.

Penalty for refusal to serve on Punchayet.

XXV. If the person appointed a Punchayet, or a majority of them, refuse, or omit, for a period of fifteen days after the receipt of an order from the Magistrate, to perform the duties required of them, the Magistrate may himself make or revise the assessment or rate, and may enforce the same as if it had been made or revised in the first instance by the Punchayet.

If Punchayet refuse or omit to act, Magistrate may assume their functions.

Proviso.

Provided that the functions of the Punchayet shall not thereby absolutely cease and determine, but may be resumed at any time, only not so as to invalidate any act done by the Magistrate under this Section.

XXVI. No person shall be bound to act on a Punchayet unless he shall reside or carry on business within the limits of the district for which the Punchayet is to be appointed.

Residents only bound to act on a Punchayet.

XXVII. Every Punchayet shall be appointed for the period of one year, and no person shall be compelled to serve on a Punchayet for more than one year at a time, or within less than three years after the expiry of previous service; but nothing in this Section shall prevent any person from being appointed to serve on a Punchayet at any time whatsoever with his own consent.

Duration of Punchayet and limitation of service thereon.

XXVIII. If a majority of the persons assessed or rated in any district for which a Punchayet shall be appointed, not being in arrear, make application in writing to the Magistrate for the removal of any member of the Punchayet appointed for such district, the Magistrate, if he think it expedient, may remove such member from the Punchayet.

Member of Punchayet removeable only on application of ratepayers.

XXIX. If any vacancy shall occur among the members of a Punchayet, or if any member appointed shall refuse or decline or be unable to act,

Vacancies in Punchayet how to be supplied.

the Magistrate may nominate and appoint another person to supply the vacancy or to act in the stead of such member, subject to the rules already laid down as to the original appointment of members; but such appointment may be made by a written communication to the person appointed, and it shall not be necessary to issue a new sunnud under Section XIV. of this Act.

Punchayet to report misconduct of Chowkeydars — or death or absence.

XXX. The Punchayet shall give notice to the Magistrate of any neglect or misconduct on the part of any Chowkeydar within the district for which they are appointed which shall come to their knowledge; and shall also give notice of any vacancy which shall occur in consequence of the death or absence of any Chowkeydar or from any other cause.

Appointment and duty of sudder punchayet.

XXXI. In cities and large towns containing three or more divisions or districts, the Magistrate may appoint a sudder punchayet consisting of not less than five members, who may be selected either from the members of the local punchayets or from any other residents of the city or town. It shall be the duty of the sudder punchayets to assist the Magistrate, when required so to do, in carrying out generally the objects of this Act, and particularly in revising the assessment or rate made by the district punchayets and enquiring into and reporting on appeals preferred against the same.

Appointment and registry of Chowkeydars.

XXXII. The Chowkeydars to be employed under this Act shall be appointed by the Magistrate, and the Magistrate shall cause to be kept a Register in which shall be entered the name, age, place of residence, and previous occupation of every person so appointed, with the date of his appointment.

Appointment of Jemadars and Inspectors.

XXXIII. Subject to the approval of the Commissioner of Circuit, the Magistrate may appoint such number of Jemadars and Inspectors as may be necessary for the supervision and control of the Chowkeydars. Provided that the number of these officers shall not be greater than one Jemadar to fifteen Chowkeydars, and one Inspector to sixty Chowkeydars.

XXXIV. Subject to the approval of the Commissioner of

Appointment of Tax-Collector and other establishment.

Circuit, the Magistrate may appoint one or more Tax Collectors or Darogahs and such other servants as may be necessary for preparing, or assisting the punchayet in preparing, the assessment or rate, for copying the same, for collecting the tax, keeping the accounts and records, and otherwise carrying out the purposes of this Act. The Magistrate shall take from every Tax Collector or Darogah such security for the due disposal of the sums collected by him as may be thought necessary.

Contingent expenses.

XXXV. The Magistrate may further incur any reasonable expense in the purchase of stationery, in providing badges, dresses, and weapons for the Chowkeydars and for any other contingencies that may seem to him necessary.

Surplus funds may be devoted to Conservancy purposes.

XXXVI. After paying the wages of the Chowkeydars, and defraying the charges specified in the three last preceding Sections of this Act, the Magistrate may, with the sanction of the Commissioners of Circuit, appropriate any sum which may be available, to the purpose of cleansing the city, town, or place, or of lighting or otherwise improving the same. [See Note at end of Act.]

To prepare assessment lists.

XXXVII. The Tax Darogahs shall prepare, from the lists hereinbefore mentioned, a Register which shall be attested by the Magistrate or his Deputy or Assistant, and shall contain the names of all person, assessed or rated so far as they can be ascertained, the property in respect of which the assessment or rate in each case is imposed and the amount payable monthly by each person.

To collect assessment.

XXXVIII. On the tenth of each calendar month, or so soon after as possible, the Tax-Darogah shall proceed in person or through some one of his office establishment, to collect the amount due for the current month from each person subject to the tax; and for all sums so collected, the Darogah shall grant a receipt. Provided that with the sanction of the Commissioners of Circuit previously obtained, the collection may be made quarterly instead of monthly; and in such case, the amount due for each quarter shall be collected in the last month of that quarter.

XXXIX. The Tax Darogah shall remit to the Magistrate, in such manner as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate, or some officer of his establishment authorized on that behalf, shall give the Darogah a receipt for every sum of money so remitted. The Magistrate shall also cause all such sums of money to be credited to a separate Fund, to be called the Chowkeydaree Fund of the city, town, or place in or on account of which they are collected.

To remit collections to the Magistrate.

XL. The Tax Darogah shall prepare all summonses and processes to be issued against defaulters, and shall make the usual returns thereto, and shall keep a regular account of all distresses levied and sales made by him for the realization of arrears.

To prepare summonses, &c.

XLI. On the 20th of each calendar month, or as soon after as possible, the Tax Darogah shall deliver or transmit to the Magistrate, in one list, a statement of all defaulters, the property in respect to which they are assessed or rated, the amount of the monthly assessment or rate and the amount due from each.

To report defaulters to Magistrate.

XLII. On receipt of the aforesaid list the Magistrate shall issue a summons against each of the defaulters therein mentioned, requiring him either to pay the demand or to attend at the Cutcherry of the Magistrate within a reasonable time, to be specified in the summons, to show cause for his refusal.

Summons of defaulter

XLIII. If any defaulter fail to appear in answer to the summons, or having appeared, fail to satisfy the Magistrate that no arrear is due from him, the Magistrate may issue a warrant to the Tax Darogah, authorizing him to levy the whole or any part of the demand by distress and sale of any goods and chattels belonging to the defaulter, or being at any time upon the premises in respect of which the arrear is due; and the Magistrate's order as contained in the warrant shall be final.

Assessment to be levied from defaulters by distress and sale.

XLIV. The Tax Darogah shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall give previous notice of the sale, and the time and place thereof, by beat of

Sale, how to be conducted.

drum in the district in which the property is situated. If the arrear be not paid with costs, or the warrant be not in the mean time discharged or suspended by the Magistrate, the goods and chattels seized shall be sold at the time and place specified, in the most public manner possible; and the proceeds shall be applied in discharge of the arrears and costs, and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure. The Tax Darogah shall make a return of all such sales to the Magistrate in the form specified in Appendix D. and the costs upon every such proceeding shall be such as are mentioned and set forth in Appendix E. annexed to this Act.

Proceeds, how to be applied.

Returns of sale.

Costs.

XLV. Any Tax Darogah or other servant appointed under this Act, and any Chowkeydar or Officer of Police, who shall purchase any property at any such sale as aforesaid, shall be liable, upon conviction before a Magistrate, to a penalty not exceeding fifty Rupees; and the property shall be confiscated.

Penalty for Tax Darogah purchasing at such sales.

XLVI. If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the district in which the premises are situate, the Magistrate may issue his warrant to the Nazir of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever; and such other Magistrate shall back the warrant so issued, and cause it to be executed, and the amount if levied, to be remitted to the Magistrate issuing the warrant.

Sale of property beyond limits of town, &c.

XLVII. All goods and chattels, except tools or implements of trade, which may be found upon any premises in respect of which an arrear is due, shall be liable to be distrained for the recovery of such arrear. If the goods and chattels belong to any person other than the defaulter, the defaulter shall indemnify the owner of such

All goods found on premises liable to sale.

But owner of goods to be indemnified by the defaulter.

goods and chattels from any damage he may sustain by reason of such distress or by reason of any payment he may make to avoid such distress or any sale under the same. Provided that no distress shall be made for any arrears due under this Act after the expiration of six calendar months from the time when such arrears become due.

Penalty for obstructing Tax Darogah in execution of duty.

XLVIII. Every person who shall wilfully obstruct or molest any Tax Darogah or any of his establishment, in the performance of their duties under this Act, or shall fraudulently conceal, remove or dispose of any of his property for the purpose of avoiding a distress under the provisions of this Act, or shall knowingly assist any other person in so doing, shall be liable on conviction before a Magistrate, to a penalty not exceeding fifty Rupees.

Magistrates to try complaints against Tax Darogah of extortion, &c.

XLIX. The Magistrate shall receive and try all complaints preferred on oath or solemn affirmation against any Tax Darogah or other person appointed under this Act for extortion, malversation, or other misconduct in the discharge of his duty. On proof of any such offence, the Tax Darogah or other person as aforesaid shall be liable to dismissal from office, and to imprisonment with or without labor, for a period not exceeding six months, and may also be compelled to refund any money corruptly or unduly exacted or received, and to deliver up any effects which may have been illegally distrained or sold, or the value thereof, or in default and until such delivery or refund be made, shall be liable to further imprisonment, with hard labor, for not more than six months. But nothing in this Section shall be taken to prevent the Magistrate from committing any Tax Darogah or other person as aforesaid for trial before the Sessions Court; or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law.

Penalty for extortion, &c.

Proviso.

Powers, duties, and liabilities of Chowkeydars, Jemadars, and Inspectors.

L. The Chowkeydars, and the Jemadars and Inspectors appointed under this Act, shall exercise all the powers, and perform all the duties, and be subject to all the liabilities of Police

officers as prescribed in the General Regulations of the Bengal Code or Acts of the Government of India for the time being in force, so far as such powers, duties, and liabilities are not inconsistent with, or otherwise expressly provided for by this Act. The Chowkeydars and the Jemadars and Inspectors are in all respects subordinate to the Police Darogah of the Thanna, within the limits of which they may be employed.

Chowkeydars to wear badges.

LI. Every Chowkeydar appointed under this Act shall wear a badge with a number, and the name of the city, town, place, or division for which he is appointed, engraved thereon.

Duties of Chowkeydars.

To apprehend offenders.

LII. Every Chowkeydar and every Jemadar and Inspector appointed under this Act shall have power, without warrant, to apprehend and convey immediately to the nearest Police Station, any person or persons taken in the Act of committing any heinous offence, or whom he shall have just cause to suspect to be about to commit or to have committed a heinous offence, or against whom a hue and cry shall be raised.

To prevent nuisances.

Second.—He shall have power to prevent obstructions and nuisances on the roads and streets.

To give intelligence of resort of thieves, &c.

Third.—He shall give immediate intelligence to the Police Darogah of the resort to his division of any receivers of stolen goods, or of any robbers or other persons of notorious or suspected character, or of any circumstances likely to occasion a breach of the peace.

To examine and detain suspected persons.

Fourth.—He may stop, examine, and if necessary detain, any person who shall be reasonably suspected at any time of having or conveying any thing stolen, or who shall be found between sunset and sunrise lying or loitering in any highway, yard, or other place, and unable to give a satisfactory account of himself, and may convey such person to the nearest Police Station.

All persons required to assist Chowkeydars in making arrests.

LIII. If a Chowkeydar or other Police Officer be unable to effect an arrest, he may require all persons present to assist him; and any person who refuses or neglect to comply with such

requisition, shall be liable, on conviction by a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment not exceeding two months.

Chowkeydars, &c., how to be paid.

LIV. On the fifteenth day of each month, or on such other day not later than the fifteenth day of the month, as the Magistrate may appoint, the Chokeydars and the Jemadars and Inspectors (if any) shall be mustered at the Thanna to which they are attached, and the Police Darogah or Mohurrer of the Thanna shall there pay them the wages due to them up to the close of the preceding month, and shall at the same time take the receipt of each Chowkeydar in an official register of receipts prepared for the purpose; and the Darogah, after signing the register in attestation of its correctness, shall transmit the same to the Magistrate.

Punishment of Chowkeydars for neglect of duty, &c.

LV. Any Chokeydar and any Jemadar or Inspector appointed under this Act, who is convicted of neglect of duty or misconduct, shall be liable to fine to an extent not exceeding half a month's wages, or to imprisonment for any period not exceeding six months.

Suspension or dismissal of Police Officers.

LVI. The Magistrate may suspend or dismiss any Officer appointed under this Act, whom he shall think remiss or negligent in the discharge of his duty or otherwise unfit for the same.

Fines how to be disposed of.

LVII. All fines levied under this Act shall be credited to the Chowkeydaree Fund and held available for the purposes of this Act.

Jurisdiction.

LVIII. Assistants to Magistrates vested with special powers, and Deputy Magistrates vested with special powers, when posted at stations other than the sudder station of the Magistrate, and empowered, under Act X. of 1854, to try cases without reference from the Magistrate, may exercise all the powers hereby vested in a Magistrate; and any Assistant or Deputy Magistrate vested with special powers may perform any of the duties hereby assigned to a Magistrate when referred to him by the Magistrate to whom he is subordinate.

LIX. All the proceedings of a Magistrate under this Act,

Proceedings of Magistrate and Commissioner of Circuit respectively subject to control of Local Government.

except as otherwise specially provided, shall be subject to the control of the Commissioner of Circuit; and all the proceedings of the Commission of Circuit shall be subject to the control of the Local Government.

Act not to apply to Town of Calcutta.

LX. Nothing contain in this Act shall extend to the Town of Calcutta.

Interpretation of Act.

LXI. Wherever in this Act, or in any Appendix thereto, there is nothing in the context requiring a different interpretation—

The word "Magistrate" shall include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate.

The word "House" shall include any shop or warehouse.

The word "Bazaar" shall mean any place of trade where there is a collection of shops or warehouses.

The word "District" shall mean a city, town, bazaar, or union, or any division thereof.

The expression "Police Darogah" shall include any Tahseeldar or Naib Tahseeldar entrusted with Police jurisdiction.

APPENDIX A.

To

[*Here insert the names, places of abode, business, or other description of the punchayet.*]

I do hereby require you, the punchayet appointed under Act XX. of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the Zillah of , a fair and equitable assessment upon the several occupiers of houses, shops, and buildings, in the (*here describe the city, town, place, or division,*) for the purpose of raising the sum of Rupees required for the maintenance of Chowkeydars for the year commencing on and other expenses authorized by Act XX. of 1856. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances

and the property to be protected of each person. But the amount assessed in respect of any one house shall not exceed Rs. (*here insert the pay of a Chowkeydar of the lowest grade*), and the aggregate amount assessed shall not exceed the average rate of two annas per mensem for each house, shop, or building in the district.

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house and shall be assessed accordingly.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade, or business or other description of the person assessed, the annual assessment, and the quota payable monthly; and may be in the following form, or to the like effect:—

Property occupied.	Name of occupier.	Profession or business or other description.	Amount of monthly payment.

APPENDIX B.

To

[*Here insert the names, places of abode, business or other description of the punchayet.*]

I do hereby require you, the punchayet appointed under Act XX. of 1856, with all reasonable expedition, not exceeding (*Here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the Zillah of , a fair and equal rate upon the several occupiers of houses, shops, and buildings, and of grounds occupied for the purpose of trade or business, in the (*here describe the city, town, place, or division*), for the purpose of raising the sum of Rs. required for the maintenance of Chowkeydars for the year commencing on and other expenses authorized by Act XX. of 1856. You shall regulate and determine the amount of the rate to be levied from every such occupier according to the annual value of the property occupied.

The rent at which any such property may reasonably be expected to let for one year shall be deemed the annual value of such property. The rate shall be an equal percentage, not exceeding 5 per cent. of such annual value.

Any person occupying ground for the purpose of trade is to be rated in respect thereof, but a person occupying ground for the purpose of cultivation or for depasturing cattle, is not to be rated in respect thereof.

If the occupier of any house or ground, in the said district, shall be unable, on the ground of poverty, to pay the rate to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house, and shall be rated accordingly.

The rate which you are hereby required to make shall specify the name of every occupier of property liable to be rated, the name, trade, or business or other description of the person rated,

the annual rateable value of the property, the annual rate, and the quota payable monthly; and may be in the following form or to the like effect:—

Property occupied.	Name of occupier.	Profession or business or other description.	Annual value of property.	Annual rate.	Amount of monthly payment.

APPENDIX C.

An assessment (*or rate, as the case may be,*) made for (*here describe the city, town, village, or other place or division for which the rate is made*) upon the several occupiers of houses and other property in the said district pursuant to Act XX. of 1856, for the purpose of maintaining Chowkeydars for such district.

Property occupied.	Names of occupiers.	Profession or business.	Amount of monthly (or quarterly) assessment (or rate).

Whereas the above assessment (*or rate, as the case may be,*) has been duly made pursuant to Act XX. of 1856, and has been revised and settled by me, the undersigned Magistrate of , the several persons whose names are included in the said assessment (*or rate*) are hereby required to pay the monthly (*or quarterly*) contributions set opposite to their names with regularity to the Tax Darogah, or other person appointed by the Magistrate to receive the same, the first payment on the 10th day of the month next succeeding the date of this Notification, and every subsequent payment on or before the 10th day of each succeeding month (*if the tax is to be collected quarterly, the months in which the payment is to be made must be specified*), or, in default thereof, any arrear that may be due will be realized by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed (*or rated*) and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this day of

Magistrate of

APPENDIX D.

1	2	3	4	5	6	7	8	9	10	
District.	Names of defaulters.	Amount of defalcation.	Amount, cost, or penalty.	Inventory of property seized under distress.	Date of Distress.	Date of sale.	Property sold.	Amount realized on each article.	Purchaser's name.	Balance

APPENDIX E.

Table of Fees payable in Distraints under this Act.

Sum distrained for.	Fee.	
	Rs.	As.
Under 1 Rupee	0	4
1 and under 3 Rupees	0	8
3 " 5 "	1	0
5 " 10 "	1	8
10 " 15 "	2	0
15 " 20 "	2	8
20 " 25 "	3	0
25 " 30 "	3	8
30 " 35 "	4	0
35 " 40 "	4	8
40 " 45 "	5	0
45 " 50 "	5	8
50 " 60 "	6	0
60 " 80 "	7	8
80 " 100 "	9	0
Above 100	10	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

By Act III., 1864, of the Bengal Council, Sections 9, 10, 11, 12, 13, and 36, are amended, as respects all places to which that Act is extended.

BENGAL.—ABKAREE.

ACT No. XXI. OF 1856.

[*Received the assent of the G. G. on the 22nd November*, 1856.

Recites expediency of consolidating and amending Abkaree laws.

1. Laws repealed.

2. Charge of Abkaree revenue ordinarily part of Collector's duties. Collector may be superseded in any place by appointment of Superintendent.

3. Government may also appoint Abkaree Commissioners to supersede Commissioners of Revenue as relates to Abkaree in any district.

4. Collectors may appoint necessary officers. Certain land Revenue officers may be appointed Abkaree Darogahs.

5. English distillery not to be worked or constructed without Collector's license.

6. Board of Revenue (with Government sanction) may prescribe rules as to granting such licenses and generally as to inspection, &c., of distilleries.

7. Duty on manufacture at English distilleries, one rupee per imperial gallon, London proof. Duty to be paid or secured before removal of the spirit.

8. Drawback to be allowed on exportation, in cases specified.

9. What bond to be executed to secure duty.

10. Ascertaining amount of drawback and other proceedings before exportation.

11. Difference between quantity passed from distillery and that ascertained by gauge at Custom House subject to duty.

12. As to removal of spirits in bond for local consumption.

13. How moneys due on bond recoverable.

14. Drawback only on spirits shipped from Custom House and to a vessel in which is a Custom House Officer. Spirits not to be re-landed without special pass.

15. Other cases in which drawback not allowed.

16. Duty on rum, spirit, &c., prepared in licensed distillery, according to quantity of spirit. Form of security bond for such liquors.

17. Jurisdiction of Collector of Calcutta.

18. Constructing or working English distillery without license; penalty, fine to one thousand rupees, and confiscation of materials.

19. Breach of rules published by Board of Revenue; penalty, fine to two hundred rupees. On second offence license to be withdrawn.

20. Attempting to remove liquors without pass; penalty, fine to one thousand rupees, and liquors and vessels confiscated. If proprietor cognizant, may close his license.

21. Attempting to re-land liquors without a pass; penalty, fine to five hundred rupees and forfeiture.

22. Foreign Liquors brought within limits of Company's territories chargeable under sec. 7. Possessing same without pass; penalty, fine to two hundred rupees, and forfeiture.

23. Brewery not to be constructed or worked, or malt liquor manufactured without license. Board of Revenue (with sanction of Government) to prescribe rules.

24. Constructing brewery, &c., without license; penalty, fine to five hundred rupees.

25. What liquors shall not be sold without license.

26. Rs. 16 fee for wholesale license, current for the official year, in district for which granted. Wholesale license through all districts obtainable.

27. Retail licenses obtainable on such fees and rules as Board of Revenue fix, but fee on each not to exceed Rs. 100 for one year. Less than two dozen quart bottles, retail.

28. Native spirits, taree, &c., not to be sold without license.

29. Taree included in fermented liquors in sections following.

30. Operation of Act in circumstances and manner specified may be suspended as to taree.

31. Collector may (with Board of Revenue sanction) establish Native distilleries, and fix limits within which to be no still or country spirits without license, may also discontinue any distillery.

32. Board of Revenue to prescribe rules as to conduct, &c., of licensed distilleries in last section.

33. Board of Revenue to regulate supply of taree, also grant of licenses with respect to gunjah, &c., also as to cultivation, &c., of intoxicating drugs.

34. Opium supplied to licensed holders, as Board of Revenue direct; no other Opium to be sold. Government may exempt districts from this section.

35. Quantities in which country spirits, &c., may be sold.

36. Tax demandable (as specified) on retail of country spirits, &c. Special licenses granted for sale of unfermented taree.

37. For license to manufacture unfermented country spirits, also for retail of spirits or fermented liquor Kabooleut to be given and security.

38. Licenses (unless otherwise specially authorized by Board of Revenue) to be yearly renewable, for retail sale, as directed.

39. Board of Revenue to regulate forms and conditions of all licenses.

40. When and how Collector may recall any license

41. How retail license may be surrendered.

42. Arrears of duty recoverable by distress, and otherwise as revenue from farmers.

43. Non-production of license to Abkaree officer, or breach of condition of license (not otherwise provided for); penalty, fine to fifty rupees.

44. Retail vendor exceeding his license, and wholesale vendor selling retail; penalty, fine to two hundred rupees. Grant of wholesale and retail license may be to same person.

45. Licensed vendor permitting drunkenness, riot, gaming, notorious bad characters, receiving goods in barter for liquor or drugs; penalty, fine to two hundred rupees.

46. Conveying country spirits from distillery under s. 31 without pass or exceeding quantity in pass, or introduction within limits of such distillery of country spirits manufactured elsewhere, without special pass; penalty, fine to five hundred rupees

47. Otherwise contravening rules of Board of Revenue as to such distillery; penalty, fine to fifty rupees.

48. Manufacturing country spirits, or selling liquors or drugs, without license; penalty, fine to five hundred rupees. This and 25th section not to apply to purchase at auction for private use.

49. Unlicensed person having spirits or drugs (except opium) more than saleable by retail under section 35, or having liquors made at English distillery or imported liquors exceeding two gallons, without pass; penalty, fine to two hundred rupees, and confiscation of liquor, vessels, &c. Not to extend to purchases for private use.

50. Secs. 48 and 49 not to apply to taree for goor or molasses, nor to cul-

tivators of ganjah or bhang; but such cultivators not to sell to unlicensed person. Cultivator disobeying this; penalty, fine to five hundred rupees.

51. Penalties for possession of opium without license.

52. Exemption from 51st sec. of cultivators, travellers, and certain horse-dealers.

53. Selling adulterated opium or possessing (except in exempted districts) opium not from Government Stores; penalty, fine to five hundred rupees, loss of license, and confiscation.

54. Proprietor, &c., conniving at manufacture or sale without license; penalty, fine to five hundred rupees.

55. Abkaree officer may enter licensed person's premises, by day or night.

56. Abkaree officer may seize liquor, &c., liable to confiscation, and arrest possessor.

57. Abkaree officer, superior to a jemadar, may arrest possessor of unlicensed still and seize the still, &c.

58. Course to be taken where unlawful manufacture or unlawful concealment of drugs suspected.

59. Who to be deemed Abkaree officer.

60. Abkaree officer arresting or seizing still or entering house, &c., under this Act to report within 24 hours to his superior, and (except under Collector's warrant) to carry person and property forthwith to Magistrate.

61. Collector may issue warrant to arrest suspected person.

62. Also search warrant, to be executed by any officer above jemadar of peons.

63. When person arrested or property seized under his warrant, Collector, after enquiry, to forward to Magistrate or to release.

64. Obstructing Abkaree officer; penalty, fine to five hundred rupees.

65. Police officers to aid Abkaree officers. Darogah or thannadar refusing; penality, fine to five hundred rupees.

66. Giving false and malicious information upon which arrest or search; penalty, fine to five hundred rupees (which or a portion may be given to person aggrieved) and imprisonment not exceeding six months.

67. Vexatious search, seizure or arrest or other excess by Abkaree officer; penalty, fine to five hundred rupees, payable, or a portion, to person aggrieved.

68. Officer neglecting to report, &c., as directed by 60th sec.; penalty, fine to five hundred rupees.

69. Abkaree officer or darogah conniving at breach of this Act; penalty, fine to five hundred rupees.

70. Abkaree Officer taking unauthorized gratuity; penalty, fine to five hundred rupees.

71. Forfeitures, penalties and confiscation to be adjudged by Magistrate on information of Collector, or Abkaree officers; information unnecessary under seven preceding sections or 45th section.

72. When accused not in custody, to be summoned by Magistrate. Information to be laid within three months of offence.

73. Second or subsequent conviction; additional imprisonment not exceeding six months.

74. Imprisonment under secs. 71 and 73, and for non-payment of any forfeiture, to be in civil gaol.

75. Confiscated goods, except opium, to be publicly sold by Collector. Opium, how to be disposed of.

76, 77. Fines, proceeds of confiscations, how to be disposed of. Reward to informers.

78. Collector's orders appealable to Commissioner.

79. Collector, with Board of Revenue sanction, may let duties in farm.

80. Board of Revenue to prescribe rules as to letting in farm.

81, 82, 83, 84. Farmer's powers, duties and position.

85. Consent of Commanding Officers required for grant of licenses, &c., within and near Military cantonments.

86. In other respects this Act in force in such cantonments. Commanding Officer to have notice of arrest or search. Act 18 of 1853 to remain in force.

87. As to Opium, Dep. Op. Agent and Sub. Dp. Op. Agent to exercise Collector's powers under this Act, and all subordinate Opium Officers to be, *pro hac vice*, Abkaree Officers.

88. Provisions of this Act not to apply to Calcutta, but Act XI. of 1849 to remain in force there.

89. Act to commence from 1st February.

90. Interpretation clause.

An Act to consolidate and amend the Law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.

Preamble.

Whereas it is expedient that the laws relating to the manufacture of spirits and the sale of spirituous and fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom, should be consolidated and amended, it is enacted as follows:

Regulations and Acts repealed.

I. Regulation II., 1802; Regulation X., 1813; Regulation XVII., 1814; Section XLI. and the following Sections of Regulation XIII., 1816; Regulation XI., 1818; Regulation VII., 1824, except the first five Clauses of Section XVIII. and Sections XXIII. and XXIV. and Regulation VIII., 1826, of the Bengal Code; and Act XXV. of 1840, Act IX. of 1841, and Act XXIII. of 1848, are hereby repealed, except so far as they repeal the whole or part of any other Regulation or Act, and except as to acts done, offences committed, and liabilities incurred before the passing of this Act.

Collectors of Land Revenue to have charge of the Abkaree Revenue.

II. The collection of the revenue arising from the manufacture of spirits, and the sale of spirits and spirituous and fermented liquors and intoxicating drugs, shall be ordinarily under the charge of the Collectors of Land Revenue, who shall perform the duties connected therewith under the control and direction of the Commissioners of Revenue, and of the Board of Revenue. But the Government may appoint any other person to be Superintendent of Abkaree Revenue in any district or place; and any person so appointed shall exercise in such district or place all the powers and authority vested by this Act or by Act XI. of 1849 in the Collector of Land Revenue; and such powers and authority shall cease to be exercised in such district or place by the Collector of Land Revenue during the continuance of such appointment.

Government may appoint Commissioners of Abkaree.

III. The Government may also appoint a Commissioner or Commissioners for the control and direction of the Officers having charge of the Abkaree Revenue in any district or districts; and when such appointment is made, the Commissioner of Abkaree shall exercise within such district or districts the powers and authority vested by this Act or by Act III. of 1856, in Commissioners of Revenue; and the Revenue Commissioners shall cease to exercise such powers and authority in the said district or districts during the continuance of such appointment.

Collectors may appoint Abkaree officers.

IV. Collectors may appoint darogahs, jemadars, peons, surveyors, gaugers and other officers for the collection of the Abkaree Revenue and for the prevention of smuggling; and the officers so appointed shall, in addition to their ordinary designations, be styled Abkaree officers. In districts where there are tahseeldars and other local officers for the collection of the Land Revenue, the office of Abkaree darogah may be united with that of tahseeldar, naib tahseeldar, or peshkar, and in such cases the tahseeldar, naib tahseeldar, or peshkar, and the officers subordinate to him, shall be held and deemed to be Abkaree officers within the meaning of this Act.

Tahseeldars may be Abkaree darogahs.

V. It shall not be lawful for any person to construct or work a

English distilleries not to be constructed or worked without license.

distillery after the manner in which distilleries are constructed and worked in England, without a license under the signature of the Collector of the district in which such distillery is situated, or in case the distillery is within twenty miles of Calcutta, or such other distance less than twenty miles as may from time to time be prescribed by the Lieutenant-Governor of Bengal, under the signature of the Collector of Calcutta.

Board of Revenue to prescribe rules for regulating English distilleries.

VI. The Board of Revenue, with the sanction of Government, may prescribe such rules relative to the granting of licenses under the preceding Section to the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work, to the size and description of the stills, to the passing and storing of the spirits, to the inspection and examination of the distillery and warehouses, and of the spirits manufactured and stored therein, and to the furnishing of statements and lists of such spirits, and of the stills, coppers, casks, and other utensils used in the distillery, as may from time to time be judged expedient.

Rate of duty to be levied on spirits.

VII. A duty shall be levied on spirits manufactured at distilleries worked according to the English method at the rate of one Rupee the imperial gallon of the strength of London-proof, to be augmented or reduced in proportion to the strength of the spirit. No spirit shall be removed from any such distillery, or the warehouses connected therewith, upon which the aforesaid duty has not been paid, or for the duty chargeable on which a bond has not been executed as hereinafter provided; and for all spirits removed upon payment of duty or under bond passes shall be issued by the Collector, which shall specify the quantity and strength of the spirit, the place of its destination, the person to whom it is consigned, and whether the duty has been paid or secured by bond. [Partially repealed by Act XXIII., 1860, s. 1.]

Drawback on exportation

VIII. A drawback of the duty paid as above on spirits manufactured after the English method, and exported by sea, in the manner hereinafter prescribed, to any port not subject to the Government

of the East India Company, or to any port in the Settlement of Prince of Wales' Island, Singapore, and Malacca, or to the Port of Aden, shall be allowed by the Collector of Customs at the port of exportation. Provided always, that the exportation shall be made within one year from the date of the payment of duty under this Act, and that the spirits, when brought to the Custom House, shall be accompanied by the pass in which such payment is certified.

Spirits may be removed for exportation under bond.

IX. Spirits may be removed from any licensed distillery for exportation as aforesaid without payment of duty, under such rules and restrictions as may be from time to time prescribed by the Board of Revenue, on the person removing them executing a bond, with one or more sureties, to the East India Company in the form hereunto annexed, for the payment of the prescribed duty upon such portion of the said spirits as may not be exported within four months from the date of the bond. Provided, however, that it shall be lawful for the Collector, with the sanction of the Commissioner, on sufficient cause shewn, to extend the period allowed for the exportation of the spirits, for a further term of four months. [Repealed by Act XXIII., 1860, s. 1.]

Rules to be observed in the exportation of spirits.

X. Spirits brought to the Custom House for exportation by sea, shall, previous to shipment, be gauged and proved by an officer of the Customs. The amount of drawback to be allowed upon spirits for which duty has been paid shall be regulated according to the strength and quantity of the said spirits as ascertained by such proof and gauge; and the quantity of spirits, for which credit is to be given in the Settlement of any bond, shall be determined in the same manner. Spirits under bond shall be taken from the distillery direct to the Custom House, under passes to be granted for that purpose by the Collector.

Duty to be recovered on any deficiency in spirits under bond.

XI. When spirits are passed from a distillery under bond, duty shall be recoverable upon any difference between the quantity of spirits so passed from the distillery, and the quantity ascertained by gauge and proof at the Custom House, less such allowance for ullage and leakage as may be prescribed by the Board of Revenue.

XII. Spirits brought to the Custom House under bond for exportation, may nevertheless be removed for local consumption under passes to be granted for that purpose by the Collector of Revenue, upon payment of the prescribed duty on the quantity so removed; and credit for such payment shall be given on the settlement of the bond.

Spirits intended for exportation may be removed for local consumption.

XIII. Any sum which may remain due to Government upon the settlement of a bond executed according to the provisions of this Act, may be recovered by any process which is or may be in force for the recovery of arrears of revenue due from farmers of land or their sureties, or by suit on the bond in any Court of competent jurisdiction.

Recovery of sums due under bond.

XIV. No drawback shall be allowed on any duty-paid spirits, nor shall the duty due on any spirits under bond be remitted, unless the spirits shall be shipped from the Custom House, and upon a vessel to which a Custom House officer has been appointed to superintend the receipt of export cargo. Spirits shipped for exportation shall not be re-landed without a special pass from the Collector of Revenue in addition to the usual order of the Collector of Customs.

Spirits, how to be shipped.

Spirits shipped for exportation not to be re-landed.

XV. No drawback shall be allowed on spirits exported to any port subject to the Government of the East India Company, other than the ports mentioned in Section VIII. of this Act, or on spirits shipped as stores; nor shall spirits under bond be so exported or shipped without payment of the duty prescribed by this Act. [Partially repealed by Act XXIII., 1860, s. 1.]

No drawback on spirits exported to Indian ports or shipped as stores.

XVI. Rum, shrub, cordials, and other liquors, prepared in a licensed distillery under the supervision of the surveyor or officer in charge of the distillery, shall be charged with duty according to the quantity of spirit used in the preparation; and all the provisions contained in this Act respecting spirits manufactured after the English method, except such as relate to gauge and proof, shall be applicable to such liquors. When any such liquors are removed for exportation without

Rum, Shrub, &c., how to be charged with duty—may be exported under the same rules as spirits.

payment of duty, the bonds to be executed by the persons removing them shall be in the annexed form.

Distilleries within twenty miles of Calcutta to be under the Collector of Calcutta.

XVII. All licensed distilleries constructed and worked after the English method, and situated within twenty miles of Calcutta or such other distance less than twenty miles, as may from time to time be prescribed by the Lieutenant-Governor of Bengal, shall be under the superintendence and control of the Collector of Calcutta, who shall exercise, with respect to such distilleries and to the spirits manufactured therein, all the powers vested in Collectors by this Act; and the Collectors of districts in which any such distilleries are situated shall have no jurisdiction with respect to such distilleries.

Penalty for constructing or working a distillery or collecting materials without license.

XVIII. Every person who shall construct or work a distillery after the English method, without a license from the Collector, shall forfeit for every such offence a sum not exceeding one thousand Rupees; and all spirits manufactured at any such distillery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

Penalty for non-observance of rules prescribed by Board of Revenue.

XIX. Every proprietor or manager of a licensed distillery, constructed and worked after the English method, who shall omit to furnish any notice or any statement or list required by the rules prescribed by the Board of Revenue under Section VI. of this Act, or shall wilfully do any thing in contravention of the said rules, shall forfeit for every such offence a sum not exceeding two hundred Rupees; and if any such offence be committed a second time with respect to the same distillery, the license granted for the working of such distillery may be withdrawn by the Collector.

Penalty for removing spirituous liquors without payment of duty.

XX. Every person who shall remove or attempt to remove from any licensed distillery constructed and worked after the English method, any spirituous liquors upon which the duty has not been paid, or for the duty on which a bond has not been executed, or any spirituous liquors for which a pass has not been issued by the Collector, shall forfeit for every such offence a sum not exceeding one thousand Rupees; and the liquors, together with the vessels

containing the same and the animals and conveyances used in carrying them, shall be liable to confiscation. If it shall appear to the Collector that the offence was committed with the consent or knowledge of the proprietor or manager, the license granted for the construction and working of the distillery from which such liquors have been removed or attempted to be removed, may be withdrawn.

Penalty for irregular re-land of spirituous liquors.

XXI. Every person who shall re-land, or attempt to re-land, any spirituous liquors shipped for exportation, without a special pass from the Collector of Revenue at the place of exportation, shall forfeit for every such offence a sum not exceeding five hundred Rupees; and the liquors, together with the casks and vessels containing the same, and the carts, boats, and animals employed in carrying them, shall be liable to confiscation.

Spirits from foreign territory subject to duty.

XXII. Spirituous liquors manufactured at the foreign settlement of Chandernagore, or at any other place in India beyond the limits of the Company's territories, shall, on passing the limits of the Company's territories, subject to this Act, be charged with the duty prescribed for proof spirits in Section VII. of this Act; and any person who may be found in possession of any such liquors, without a pass from the Collector certifying the payment of such duty, shall forfeit for every such offence a sum not exceeding two hundred Rupees; and the liquors, together with the vessels containing the same, and the animals and conveyances used in carrying them, shall be liable to confiscation.

Construction or working of breweries and manufacture of malt liquor, without license, prohibited.

XXIII. It shall not be lawful for any person to construct or work a brewery, or to manufacture any description of malt liquor, without a license from the Collector of the District. The Board of Revenue, with the sanction of Government, may prescribe such rules relative to the granting of licenses for constructing and working breweries as may from time to time be judged expedient.

Penalty.

XXIV. Exery person who shall construct or work a brewery, or manufacture malt liquor, without a license, shall forfeit for every such offence a sum not exceeding five hundred Rupees.

Spirituous and fermented liquors not to be sold without license.

XXV. Spirituous liquors passed from distilleries worked according to the English method, fermented liquors manufactured at a licensed brewery, and spirituous and fermented liquors imported either by land or by sea, shall not be sold except under license from the Collector.

Fee for wholesale license.

XXVI. Persons taking out licenses for the wholesale vend of spirituous and fermented liquors as aforesaid, shall pay for every such license the sum of sixteen Rupees. The license shall be current only during the official year and in the district in which it is granted. But travelling merchants may obtain a general license authorizing them to sell by wholesale in any district which they may visit in the course of their travel, without taking out a fresh license for that district, under such rules and restrictions as may be from time to time prescribed by the Board of Revenue.

Fee for retail license.

XXVII. Persons taking out licenses for the retail sale of spirituous and fermented liquors as aforesaid, shall pay for every such license such fee or tax as may be fixed by the Board of Revenue; and such fee or tax shall be payable at such periods as the said Board may direct. Provided that such fee or tax shall be at such rate for each license as shall not exceed the total sum of one hundred Rupees for the whole year. Any sale of spirituous or fermented liquors, as aforesaid, in less quantity than two imperial gallons or one dozen of quart bottles, shall be held to be a retail sale.

What to be held a retail sale.

Country spirits, liquors, and drugs, not to be sold without license

XXVIII. It shall not be lawful for any person to manufacture spirits after the native process, nor to sell such spirits, or taree, or puchwye, or gunjah, bhang, churrus, opium, or any preparation or admixture of the same, except under license from the Collector.

Taree to be held to be a fermented liquor.

XXIX. All the provisions relating to the sale or possession of fermented liquors contained in the following Sections of this Act, shall be held applicable to the sale or possession of taree, whether in a fermented state or otherwise; and all taree, both fresh and fermented, shall be held to be included in the expression "fermented liquors," as used in the following Sections of this Act.

Proviso.

XXX. Provided, however, that it shall be lawful for Government on the report of the Board of Revenue, to pass an order suspending the operation of all the provisions relating to taree contained in this Act, with respect to any district in which the consumption of taree in a fermented state is inconsiderable; and after the passing of any such order, it shall be lawful for taree to be possessed and sold without license in any such district, notwithstanding any thing contained in this Act.

Collectors may establish distilleries for country spirits.

XXXI. The Collector, with the sanction of the Board of Revenue, may establish, at any place within his jurisdiction, a distillery in which spirits may be manufactured after the native process; and may from time to time fix limits within which no county spirits, except such as are manufactured at the said distillery, shall be introduced or sold without a special pass from the Collector, and within which no stills shall be constructed or worked, or spirits manufactured, except at the said distillery. He may also, with the like sanction, discontinue any distillery so established, whenever its discontinuance may appear to be expedient.

Board may prescribe rules for distilleries.

XXXII. The Board of Revenue may prescribe such rules relative to the management of distilleries established under the last preceding Section, to the conditions on which spirits may be manufactured in the said distilleries, and to the passes to be issued for the conveyance of such spirits to the shops of the vendors, as may from time to time be judged expedient.

And regulate the mode of supplying taree and intoxicating drugs to the licensed vendors thereof.

XXXIII. The Board of Revenue may regulate the mode in which taree shall be supplied to licensed vendors of the same; and may frame rules for the grant of licenses or passes to persons purchasing, transporting, or storing ganjah, bhang, or churrus for the supply of the licensed vendors of those drugs. They may also place the cultivation, preparation, and store of the intoxicating drugs above-mentioned under such supervision as may be deemed necessary to secure the duty leviable thereon.

Supply of Opium to licensed vendors.

XXXIV. Opium shall be supplied to licensed vendors from the Government stores in such manner and at such prices as the Board of Revenue may

direct; and no other description of opium shall be sold by such vendors. Provided that the Government may, by an Order of Government, exempt any district or districts from the operation of this Section.

Proviso.

XXXV. Except for the supply of licensed vendors, country spirits, taree, and puchwye and intoxicating drugs, shall not be sold in larger quantities than are hereunder specified—namely, country spirits one seer, taree or puchwye four seers; ganjah or bhang, or any preparation or admixture of the same, one quarter of a seer; churrus or opium, or any preparation or admixture of the same, five tolas weight; and the sale of any such quantity as is herein allowed shall be deemed to be a retail sale within the meaning of this Act.

Sale of more than specified quantities of country spirits, &c., prohibited.

XXXVI. Whenever a license for the retail sale of country spirits, taree, and puchwye, or intoxicating drugs, shall be granted under this Act, the Collector shall be authorized to demand, in consideration of the privilege granted, such a tax or duty, or a tax or duty adjusted on such principles, as may from time to time be fixed with the sanction of the Board of Revenue; and such tax or duty shall be specified in the license, and shall be payable at such periods as the said Board may direct. The Collector may grant special licenses for the sale of unfermented taree only, at those periods of the year when the fresh juice is in request; fees may be demanded for such special license at a rate not exceeding one Rupee for each license; and the vendors shall not be subject to any other tax or duty in respect of such sale.

Duty on the retail sale of country Spirits, &c.

XXXVII. Every person taking out a license for the manufacture of country spirits, or for the retail sale of spirituous or fermented liquors, or intoxicating drugs, shall execute a counterpart engagement in conformity with the tenor of the license, and shall give such security for the performance of his engagement, or make such deposit in lieu of security, as the Collector may require.

Licensed retail vendors of country spirits to furnish security.

XXXVIII. Unless otherwise specially authorised by the Board of Revenue, licenses for retail sale shall be granted for the term of one year, and, if

Duration and renewal of license.

continued to the holders thereof, shall be formally renewed from year to year. But it shall be incumbent on every person holding a license, who may intend not to renew it, to give notice of his intention to the Collector fifteen days previously to the expiration of the year; and if such notice be not given, and the license be not recalled by the Collector, the license held and engagement entered into by every such person, shall remain in force as if the said license and engagement had been formally renewed.

Board to regulate form of license.

XXXIX. The Board of Revenue shall have authority to regulate the form and conditions of all licenses granted under this Act.

License may be recalled in certain cases.

XL. The Collector may recal or cancel any license granted under this Act if the tax or duty therein specified be not duly paid, or in case of a violation of any other condition thereof, or of the holder being convicted a breach of the peace or any other criminal offence. If the Collector desire to recal a license for any cause other than those above specified, he shall give fifteen days' previous notice and remit a sum equal to the tax for fifteen days, or, if notice be not given, shall make such further compensation for default of notice as the Commissioner or Board of Revenue shall direct.

Surrender of License.

XLI. Any licensed retail vendor may surrender his license on giving fifteen days' previous notice to the Collector, and paying a sum equal to the tax for fifteen days over and above the sum payable under the license.

Recovery of arrears of tax or duty.

XLII. The Collector may recover any arrear of tax or duty, due on account of any license granted under this Act, by distress and sale of the goods and chattels of the person from whom the same is due or of his surety, or by any other process which is or may be in force for the recovery of the arrears of revenue due from farmers of land or their sureties.

Penalty for refusing to produce license on demand of Abkaree officer or for breach of license.

XLIII. Every person licensed to manufacture country spirits, or to sell spirituous or fermented liquors or intoxicating drugs, who shall not produce his license on the demand of any Abkaree officer, or who shall commit any act in breach of any of the conditions of his license not otherwise provided for in this Act, shall forfeit for every such offence a sum not exceeding fifty Rupees.

XLIV. Every licensed retail vendor who shall sell any larger quantity of spirituous or fermented liquors, or intoxicating drugs, than is allowed to be sold by retail by the provisions of this Act, and every licensed wholesale vendor who shall make a retail sale, shall forfeit for every such offence a sum not exceeding two hundred Rupees. Provided always, that nothing in this Section shall be held to prohibit the grant to the same person of both wholesale and retail licenses, subject to the provisions of this Act.

Penalty for sale in contravention of license.

Proviso.

XLV. Every person licensed to sell spirituous or fermented liquors, or intoxicating drugs, who shall permit drunkenness, riot, or gaming in his shop, or shall permit persons of notoriously bad character to meet or remain therein, or shall receive any wearing apparel or other effects in barter for liquors or drugs, shall forfeit for every such offence a sum not exceeding two hundred Rupees.

Penalty for permitting drunkenness, &c., in shop.

XLVI. Every person who shall convey or attempt to convey any country spirits from a distillery established under Section XXXI. of this Act without a pass, or exceeding the quantity for which a pass shall have been granted, or shall introduce or attempt to introduce any country spirits manufactured at another place into the limits fixed for the consumption of spirits manufactured at such distillery, without a special pass from the Collector, shall forfeit for every such offence a sum not exceeding five hundred Rupees.

Penalty for conveying country spirits from distillery without pass, &c.

XLVII. Every person who shall wilfully contravene any rule prescribed by the Board of Revenue for the management of a distillery established as aforesaid, otherwise than as provided for in the last preceding Section, shall forfeit for every such offence a sum not exceeding fifty Rupees.

Penalty for contravention of rules prescribed by the Board of Revenue.

XLVIII. Every person other than a licensed manufacturer who shall manufacture any country spirits, and every person other than a licensed vendor, or a person duly authorized to supply licensed vendors, who shall sell any spirituous or fermented liquors, or

Penalty for illicit manufacture or sale of country spirits, &c.

intoxicating drugs, and every person authorized to supply licensed vendors, who shall sell any such liquors or drugs to any person other than a licensed vendor, shall forfeit for every such offence a sum not exceeding five hundred Rupees. Provided always, that nothing in this Section, or in Section XXV., shall apply to the sale by auction of any spirituous liquors, wines, or beer, purchased by any person for his private use, and so disposed of upon such person quitting a station or after his decease.

Proviso.

XLIX. Every person, other than a licensed manufacturer or vendor, or a person duly authorized to supply licensed vendor, who shall have in his possession any larger quantity of country spirits, or taree, or puchwye, or intoxicating drugs, except opium, than may legally be sold by retail under the provisions of Section XXXV. of this Act, or shall transport by land or by water, or have in his possession, any spirituous liquors made at a distillery worked according to the English method, or any imported spirituous or fermented liquors, in larger quantity than two gallons, without a pass from the Collector or other officer duly empowered in that behalf, shall forfeit for every such offence a sum not exceeding two hundred Rupees; and the liquors and drugs, together with the vessels, packages, and coverings in which they are found, and the animals and conveyances used in carrying them, shall be liable to confiscation. Provided always, that nothing in this Section shall extend to any spirituous liquors, wines, or beer, purchased by any person for his private use and not for sale.

Penalty for illegal possession of country spirits, &c.

Proviso.

L. The provisions of the two last preceding Sections, so far as they relate to the sale and possession of fermented liquors, shall not be held applicable to the sale and possession of taree, the produce of the date tree, when supplied or used for the manufacture of goor or molasses; and the provisions of the said Sections relating to the sale and possession of intoxicating drugs, shall not be held applicable to the sale and possession of ganjah or bhang by the cultivators of the plants which produce those drugs respectively. But such cultivators are prohibited from selling

Provisions of the two last preceding Sections not to apply to the sale and possession of taree when supplied to sugar manufactories, nor to the sale and possession of ganjah and bhang by cultivators.

Cultivators of ganjah or bhang to sell only to licensed persons.

any ganjah or bhang to any one other than a licensed vendor, or a person duly authorized to purchase by pass or license from the Collector; and every such cultivator who shall act in breach of this prohibition, shall forfeit for every such offence a sum not exceeding five hundred Rupees.

Penalty for having in possession a greater quantity of opium than five tolas weight.

LI. Every person, other than a licensed vendor, who shall have in his possession a greater quantity of opium than five tolas weight, shall forfeit for every such offence a sum not exceeding five hundred Rupees, unless the opium found in the possession of such person shall exceed the weight of thirty-one seers and a quarter, in which case the penalty may be increased at a rate not exceeding sixteen Rupees the seer for all the opium so found in excess of that weight: and the opium, together with the vessels, packages, and coverings in which it is found, and the animals and conveyances used in carrying it, shall be liable to confiscation.

Exception in favour of.

LII. Provided always, that nothing in the last preceding Section shall extend to the persons and circumstances hereinafter specified, namely:

Opium cultivators.

1. Authorized opium cultivators having newly extracted opium in their possession during the usual period between the full growth of the poppy, and the delivery of the produce to the Opium Agent.

Travellers.

2. Travellers and visitants from foreign states or countries having in their possession any quantity of foreign opium not exceeding two seers, the produce of such states and countries, and intended for the private use of such travellers and visitants, or their attendants, and not for sale or traffic.

And horse dealers.

3. Dealers in horses travelling with strings of horses from beyond the South-West frontier of the territory under the Government of the Lieutenant-Governor of the North-Western Provinces, and having in their possession opium, the produce of foreign states or countries, not exceeding in quantity the proportion of ten tolas weight for each horse.

If opium be found in the possession of any traveller or visi-

Penalty for possession of excessive quantity of opium by travellers, &c.

tant, or any dealer in horses as aforesaid, in excess of the quantities above specified, such excess shall be liable to confiscation, but the persons in whose possession it may be found shall not be subject to any further penalty.

Penalty for sale of adulterated opium, &c., to licensed vendors.

LIII. Every licensed vendor, who shall sell or offer for sale opium adulterated with any foreign substance, not being a preparation or admixture of opium for the sale of which such vendor may have taken out a license, or, except in districts exempted from the operation of Section XXXIV., shall sell or have in his possession any opium other than the opium supplied to him from the Government stores, shall forfeit for every such offence a sum not exceeding five hundred Rupees, and the license held by him shall be withdrawn, and the opium, together with the vessels or packages in which it is found, shall be seized and confiscated.

Penalty for conniving at the illicit manufacture or sale of spirits, &c.

LIV. Every proprietor, farmer, tahseeldar, gomashtah, or other manager of land, who shall authorize or connive at the manufacture of country spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, shall forfeit for every such offence a sum not exceeding five hundred Rupees.

Power of Abkaree officers to inspect shops.

LV. Any Abkaree officer may enter and inspect at any time by day or by night the shop or premises in which any licensed manufacturer or retail vendor shall carry on the manufacture of country spirits, or the sale of spirituous or fermented liquors, or intoxicating drugs.

And to arrest persons carrying spirits, &c., liable to confiscation.

LVI. Any Abkaree officer may stop and detain any person carrying any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act; and may seize the liquors or drugs, with the vessels, packages, or coverings in which they are contained, and the animals and conveyances used in carrying them; and may also arrest the person in whose possession such liquors or drugs are found.

And to arrest unlicensed distillers, &c.

LVII. Any Abkaree officer above the rank of a jemadar of peons may arrest any person having in his possession an unlicensed still, or any spirituous

or fermented liquors, or intoxicating drugs liable to confiscation under this Act, or engaged in the unlawful sale of spirituous or fermented liquors, or intoxicating drugs, and may seize such still with the materials for working it, and all such liquors and drugs.

Power of Abkaree officers to search on information of illicit manufacture or possession.

LVIII. Whenever any Abkaree officer above the rank of a jemadar of Peons shall have good reason to believe, from information given by any person, which information shall be taken down in writing, that spirits are unlawfully manufactured, or that any spirituous or fermented liquors, or intoxicating drugs liable to confiscation under this Act, are kept or concealed in any house boat or other place, such officer may, between sunrise and sunset, but always in the presence of a darogah, or other officer of Police not being under the grade of a jemadar, enter into any such house, boat, or place, and in case of resistance may break open any door, and force and remove any other obstacle to such entry; and may seize and carry away all stills and materials used in the manufacture of such spirits, and all such liquors and drugs; and may also arrest the occupier of the house, boat, or place, with all other persons concerned in the manufacture of such spirits or in the keeping and concealing of such liquors or drugs.

Officers of the Police, Customs, and Revenue, Departments may be vested with same powers as Abkaree officers.

LIX. The powers of seizure, search, and arrest, given to Abkaree officers by the three last preceding Sections, shall, in regard to the seizure and search for contraband opium and the arrest of persons found in the possession thereof, be vested also in the officers of the Police, Customs, and Revenue Departments according to their respective grades. And it shall further be lawful for the Government to invest the officers of those departments, or any of them, with the like powers with respect to the seizure of, and search for, spirituous and fermented liquors and intoxicating drugs of every description, and the arrest of persons found in possession of them; and such officers, when so empowered, as well as all Police, Customs, and Revenue officers, when acting under the authority conferred by this Section for the suppression of illicit dealings in opium, shall be held and deemed to be Abkaree officers within the meaning of this Act.

Abkaree officer to report every arrest, seizure, or search to his official superior and to take the person arrested to the Magistrate for trial.

LX. Whenever an Abkaree officer shall arrest any person, or seize any still, or any liquors or drugs liable to confiscation under this Act, or enter any house, boat, or place for the purpose of searching for any such illicit articles, he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest, or seizure, or search, to his official superior, and unless acting under the warrant of the Collector, shall carry the person arrested, or the illicit article seized, with all convenient despatch, to the Magistrate, for trial or adjudication.

Collector may issue warrant of arrest in certain cases.

LXI The Collector may issue his warrant for the arrest of any person whom he may have reason to believe, either from information in writing or from the proceedings in any other case, to be engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, or to have in his possession any such liquors or drugs, liable to confiscation under this Act.

Collector may issue search warrant.

LXII. The Collector may issue his warrant for the search of any house, boat, or other place, in which upon any of the grounds mentioned in the last preceding Section, he may have reason to believe that spirits are unlawfully manufactured, or that spirituous or fermented liquors or intoxicating drugs, liable to confiscation under this Act, are kept or concealed; and such warrant may be executed by any officer above the rank of a jemadar of peons in the manner prescribed in Section LVIII. of this Act.

Precedure after arrest or seizure.

LXIII. Whenever any person is arrested, or any articles are seized under the warrant of a Collector, the Collector, after such inquiry as he thinks necessary, shall send the person arrested or the articles seized to the Magistrate, or shall order the immediate discharge of such person or the release of such articles.

Penalty for obstructing Abkaree officers.

LXIV. Every person who shall obstruct or resist any Abkaree officer in the due execution of this Act, or of any rules prescribed under the authority thereof, shall forfeit for such offence a sum not exceeding five hundred Rupees.

LXV. All Police officers are required to aid the Abkaree officers in the due execution of this Act, upon notice given or request made by such officers; and any Police officer who, without lawful excuse, shall neglect or refuse to assist as aforesaid, and any darogah or other officer in charge of a Police station, who, on application made by an Abkaree officer under Section LVIII. of this Act, shall fail to attend a search himself, or to depute a subordinate officer not being below the grade of a jemadar, shall forfeit for such offence a sum not exceeding five hundred Rupees.

Police officers to assist Abkaree officers.

Penalty.

LXVI. Every person who shall maliciously give false information against any person as being engaged in the unlawful manufacture of spirits, or as selling or having in his possession any spirituous or fermented liquors or intoxicating drugs in contravention of this Act, and so procure that such person be arrested, or that any house, boat, or other place be searched, to the injury or annoyance of such person, or any other person whatsoever, shall forfeit for such offence a sum not exceeding five hundred Rupees, which sum, or any portion thereof, may be paid to the person aggrieved, and shall be further liable to imprisonment for a period not exceeding six months.

Penalty for maliciously giving false information.

LXVII. Any Abkaree officer who shall, without reasonable ground of suspicion, search or cause to be searched any house, boat, or other place, or shall vexatiously and unnecessarily seize the goods or chattels of any person, on the pretence of seizing or searching for any spirituous liquors or intoxicating drugs liable to confiscation under this Act, or shall vexatiously and unnecessarily arrest any person, or commit any other excess not required for the execution of his duty, shall forfeit for such offence a sum not exceeding five hundred Rupees, which sum, or any portion thereof, may be paid to the person aggrieved.

Penalty for vexatious search or seizure.

LXVIII. Any Abkaree officer who shall neglect to report the particulars of an arrest, seizure or search, within twenty-four hours thereafter, or shall delay carrying to the Magistrate or Collector, as the case may be, any person arrested, or

Penalty on Abkaree officers for delay in reporting arrests, &c., or in carrying persons arrested to Collector.

any illicit articles seized under this Act, shall forfeit for such offence a sum not exceeding two hundred Rupees.

Penalty for conniving at escape of persons arrested, &c.

LXIX. Any Abkaree officer, who shall unlawfully release or connive at the escape of any persons arrested under this Act, or connive at the manufacture of spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person; or by any licensed person contrary to the terms of his license, or act in a manner inconsistent with his duty, for the purpose of enabling any person to do any thing whereby any of the provisions of this Act may be evaded or broken, or the Abkaree Revenue defrauded; and any darogah of Police or other officer invested with local jurisdiction, who shall authorize, or connive at the establishment of any unlicensed shop for the sale of such liquors or drugs as aforesaid in any place subject to his control, shall forfeit for such offence a sum not exceeding five hundred Rupees.

Penalty for asking or taking gratuities.

LXX. Any Abkaree officer who shall ask or take any unauthorized gratuity in consideration of doing or omitting to do any act in his official capacity, shall forfeit for such offence a sum not exceeding five hundred Rupees.

Adjudicature of penalties and seizures.

LXXI. All forfeitures and penalties prescribed for offences against the provisions of this Act, and all seizures of goods declared liable to confiscation under this Act, shall be adjudged by the Magistrate on the information of the Collector or any Abkaree officer. Provided that no such information shall be necessary in any case of complaint preferred to a Magistrate under any of the seven last preceding Sections or under Section XLV.

Procedure in cases other than those of persons sent in custody by a Collector or Abkaree Officer.

LXXII. In all cases in which complaint or information is preferred to a Magistrate of offences committed against this Act, not being cases in which persons are sent in custody by a Collector or Abkaree officer, the Magistrate shall issue a summons requiring the attendance of a person accused. The rules contained in the Regulations and Acts in force, for the trial of cases before a Magistrate, and for appeal against orders passed by a Magistrate, shall be applicable to trials under this Act. Provided that no

complaint or information of an offence against this Act shall be admitted, unless it be preferred within the period of six months after the commission of the offence to which the complaint or information refers.

Punishment on second or subsequent conviction.

LXXIII. Whenever any person shall be convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Confinement in Civil Gaol.

LXXIV. Every person who shall be imprisoned under the last preceding Section, or on account of the non-payment of any sum forfeited under this Act, if the offence of which he has been convicted be one with respect to which the information of the Collector or an Abkaree officer is required by Section LXXI. shall be confined in the Civil Gaol.

Disposal of confiscated goods.

LXXV. All goods and chattels adjudged to confiscation, except opium, shall be disposed of by the Collector by public sale. Opium seized and confiscated shall be sent for examination to the Civil Surgeon of the station, and, if declared by him to be fit for use, shall be transmitted to the Government factories, or otherwise disposed of in such manner as the Board of Revenue shall direct. If declared to be unfit for use, it shall be immediately destroyed.

Disposal of fines, &c., as rewards.

LXXVI. One-half of all fines and forfeitures levied from persons convicted of the unlawful manufacture of spirits, or of the unlawful sale or possession of spirituous or fermented liquors or intoxicating drugs, and one-half of the proceeds from sale of all confiscated articles except opium, and, in the case of opium confiscated and declared by the Civil Surgeon to be fit for use, a reward of one rupee eight annas for each seer, shall, upon adjudication of the cases, be awarded to the officer or officers who apprehended the offender; and the other half of such fines and forfeitures, and the other half of the proceeds of sale, or, in the case of opium as

aforesaid, a reward of one rupee eight annas for each seer, shall be given to the informer. If in any case the fine or forfeiture is not realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred Rupees, as may seem to them fit; and the said Board may direct by general order what classes of Abkaree officers shall receive rewards, and what classes shall have no title to share therein.

Rewards where no fine is realized.

LXXVII. All fines and forfeitures levied under this Act, the disposal of which is not specially provided for, shall belong to Government; but the Board of Revenue may appropriate any portion thereof, not exceeding one-half, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Act.

Fines undisposed of to belong to Government.

Special rewards to informers.

LXXVIII. All orders passed by a Collector under this Act shall be appealable to the Commissioner in the usual manner, under the laws and regulations in force relative to appeals from the orders of Collectors.

Appeals from orders and sentences passed under this Act.

LXXIX. It shall be lawful for the Collector, with the sanction of the Board of Revenue, to let in farm for any period not exceeding five years, the duties leviable on the retail sale of spirituous or fermented liquors, or intoxicating drugs, or any description of such liquors or drugs, in any pergunnah or other known division of a district.

Collector, with the sanction of the Board of Revenue, may farm out the duties leviable on the sale of spirits, &c., except opium.

LXXX. The Board of Revenue may prescribe rules for the invitation and acceptance of tenders for such farms and for the requisition of security for the due fulfilment of the engagements entered into by farmers. The said Board may also regulate the form and conditions of lease; and any breach of those conditions shall render the lease liable to annulment.

Board of Revenue to regulate invitation and acceptance of tenders for such farm.

LXXXI. When the duties leviable on any of the articles above enumerated are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm; and all the

The farmer to make his own arrangements with the manufacturers and vendors within the limits of his farm, &c.

penalties and forfeitures prescribed by this Act, for the unlawful manufacture, sale, or possession of any such article, shall be incurred by all persons manufacturing, selling, or possessing the same without license or authority from the farmer.

List of licenses granted by farmer to be filed.

Restrictions with respect to grant of licenses.

LXXXII. Provided always, that every such farmer shall be required to file in the Collector's office a list of all the licenses granted by him, in such form as may be prescribed by the Board of Revenue. Provided also, that it shall be lawful for the Collector, with the sanction of the said Board, before entering into engagements for any such farm, to make such reservations or restrictions with respect to the grant of licenses as may be deemed proper and expedient.

Lease may be cancelled.

Compensation to farmers in certain cases.

LXXXIII. The Collector may, with the sanction of the Board of Revenue, cancel any lease granted under this Act; or within the period of the lease, impose any new restriction on the farmer. If a lease be cancelled for any cause other than a breach on the part of the farmer of the conditions of the lease, or if any reservation or restriction with respect to the grant of licenses be imposed within the period of the lease, the farmer shall be entitled to receive such compensation for any loss which he may sustain thereby as the Board of Revenue shall think just and proper.

Recovery of arrears of tax or duty from or by farmers.

LXXXIV. The provisions of Section XLII. of this Act shall be applicable to any arrear that may be due from any farmer of Abkaree Revenue; and every such farmer shall be authorized and empowered to use the same means and processes for the recovery of any arrear of tax or duty due to him from any authorised vendor, which may be lawfully used by zemindars and farmers of land for the recovery of arrears of rent due to them from their under tenants.

Rules respecting the manufacture and sale of spirits, &c., in Military Cantonments.

LXXXV. Within the limits of any Military Cantonment, and within a circle drawn at the distance of two miles, or such other distance as may in any case be prescribed by Government from

such limits, licenses for the manufacture of spirits and for the sale of spirituous and fermented liquors shall not be granted, nor shall the duties leviable upon such spirits and liquors be let in farm, otherwise than with the knowledge and consent of the Commanding Officer, and upon the requisition of such Officer, any license which may have been granted, either by the Collector or by a farmer, within such circle or limits, shall be immediately withdrawn.

Mode of making arrest or search within Military Cantonments.

LXXXVI. In all other respects, the foregoing provision of this Act shall have full force and effect within such circle and limits as aforesaid. Provided, however, that, when arrest or search is to be made within the limits of any Cantonment, the Collector or other officer authorized under this Act to make arrest or search shall, whenever it may be practicable, give previous notice to the Commanding Officer, and in all other cases shall report the arrest or search to such Commanding Officer with as little delay as possible. Provided also that nothing herein contained shall affect or interfere with the provisions of Act XVIII. of 1853.

Powers vested in Officer of the Opium Department.

LXXXVII. In the districts in which the poppy is cultivated on account of Government, the Deputy Opium Agents and Sub-Deputy Agents shall exercise the powers vested by this Act in Collectors, so far as the same relate to the suppression of illegal dealings in opium: and the officers of the Opium Department shall exercise the powers vested by this Act in Abkaree officers for the seizure of illicit opium and the arrest of persons found in possession thereof, and in respect to such seizures and arrests shall be held and deemed to be Abkaree officers within the meaning of this Act.

Provisions not applicable to the Town of Calcutta.

LXXXVIII. Nothing in this Act relating to the grant of licenses for the sale of spirituous and fermented liquors and intoxicating drugs, and the recovery of arrears of tax or duty due under such licenses, to the illicit sale, carrying, or possession of spirituous and fermented liquors and intoxicating drugs, and the penalties incurred thereby, and to the appointment, duties, and responsibilities of Abkaree officers, shall extend to the Town of

Calcutta; but with respect to all such matters, the provisions of Act XI. of 1849, shall continue in full force and effect as if this Act had not been passed.

Saving of provisions of Act XI., 1849.

LXXXIX. This Act shall commence and have effect from and after the First day of February, 1857.

Commencement of Act.

XC. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:—

Construction.

The word "Government" shall mean the Lieutenant-Governors of Bengal and of the North-Western Provinces.

"Government."

The expression "Board of Revenue" shall mean the Board of Revenue in Calcutta and the Sudder Board of Revenue at Agra.

"Board of Revenue."

The word "Commissioner" shall mean the Commissioner of a Revenue Division, or a Commissioner of Abkaree.

"Commissioner."

The word "Collector" shall include a Deputy Collector, or other Revenue Officer in independent charge of a district, and a Superintendent of Abkaree Revenue.

"Collector."

The word "Magistrate" shall include a Joint Magistrate, or other person lawfully exercising the powers of a Magistrate, and any Assistant or Deputy Magistrate with special powers, stationed at a place other than the sudder station of the Magistrate, and empowered to try cases without reference from the Magistrate.

"Magistrate."

The expression "Country Spirit" shall mean any spirits made by the native process of distillation.

"Country Spirit."

The expression "Intoxicating drugs" shall include ganjah, bhang, churrus, and opium, and every preparation and admixture of the same.

"Intoxicating drugs."

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Number.

Words importing the masculine gender shall include females.

Gender.

FORM OF BOND UNDER SECTIONS IX. AND XVI.

Know all men by these presents, That we are jointly and severally held and firmly bound unto the East India Company, in the sum of Company's Rupees to be paid to the said East India Company; for which payment well and truly to be made, we jointly and severally bind ourselves, and each of us binds himself and each and every one of our respective heirs, administrators, and representatives by these presents,

Sealed with our seals. Dated this day of 18

Whereas the above bounden are justly and truly indebted to the East India Company in the sum of Company's Rupees being the amount of duty payable to the East India Company, at the rate of one rupee per imperial gallon London proof, for gallons of [*or for gallons of proof spirit used in the preparation of dozens of bottles or gallons of cordials and liquors as specified in the annexed Schedule*] manufactured at which the said ha been allowed to remove thence for exportation by sea subject to the provisions of Act XXI. of 1856, without having paid the amount of such duty. Now the condition of this obligation is such that, if the above-bounden his or their heirs, executors, administrators, or representatives, or some or one of them, do and shall, at the expiration of four calendar months from the date of this obligation, well and truly pay or cause to be paid to the said East India Company duty at the rate of one rupee per imperial gallon of proof spirit for all or any portion of the above-mentioned which shall not have been then exported by sea subject to the aforesaid provisions (of which exportation, if any, due proof shall be given) or passed for local consumption on payment of duty, then this obligation to be void, otherwise to remain in full force and virtue.

Sealed and delivered }
in the presence of }

(If the bond be for cordials and other liquors under Section XVI. add.)

SCHEDULE.

Description of Cordials and Liquors.	Quantity in bottles or gallons.	Quantity of proof spirits.

BENGAL.—TOLLS ON THE KURRATIYA.

ACT No. XXII. OF 1856.

[*Received the assent of the G. G. on the 5th Dec.*, 1856.

Recites expediency of providing funds to improve navigation of Kurratiya river within district of Bogra.

1. Tolls to be levied, at rates specified, on boats, &c., in that portion of said river. Stations and rules for levying to be published by Lieut.-Governor.

2. Tolls to be levied only whilst river navigable.

3. Toll-Collector may detain boat, &c., for toll. How toll may be recovered by sale of boat, &c.

4. Unlawful detention of boat, &c., or receipt of excessive toll; penalty fine to two hundred Rupees.

5. Measures which Government may take to render the river navigable.

6. Power may be granted to private person to take those measures. Tolls may be granted on lease.

An Act for establishing a Toll on Boats and Timber passing through the Kurratiya river in the district of Bogra.

Preamble.

Whereas it is expedient, with a view to afford facilities for the internal commerce of the districts of Dinagepore, Rungpore and Bogra, to adopt measures for the improvement of the navigation of that part of the Kurratiya river, which lies within the district of Bogra, and whereas any measure which may be adopted for this purpose will necessarily occasion a considerable outlay at the first, and an annual expense thereafter, and it is just and reasonable that, to defray the same, a moderate toll should be levied on all boats, timber, rafts and floats, passing through or within such part of the said river; and whereas it is expedient to encourage individual enterprise, and the employment of private capital on works of public utility, it is enacted as follows:

Tolls may be levied on the Kurratiya.

I. Tolls, at the rates specified in the Schedule annexed to this Act, may be levied on all boats, timber, rafts, and floats, passing through or within the aforesaid part of the Kurratiya river, at such stations or places as the Lieutenant-Governor of Bengal may from time to time appoint. The said tolls shall be levied by such persons and under such rules, as the said Lieutenant Governor may direct; and all such rules shall be duly notified in the English and Vernacular Gazettes for public information.

But not till measures have been taken for improving the navigation.

II. Provided that no such toll shall be levied until the Lieutenant-Governor of Bengal shall be satisfied by the report of a competent person, that effective measures have been taken to render the passage through the said part of the Kurratiya river navigable throughout the year. Provided, also, that the levy of the said tolls shall be continued only so long as the passage is kept so navigable.

Boats, &c., may be detained and sold for non-payment of toll.

III. Any person duly appointed or authorized to collect the said tolls may detain any boat, timber, raft or float, for which the toll chargeable under this Act is not paid; and, on the report of such person, which report shall be made within twenty-four hours, the Deputy Collector of Bogra, or other public officer duly authorized by Government in that behalf, may publish a notice appointing a day for the sale of the same. At or after the time appointed by the notice, which shall not be less than fifteen days

from the date of the publication thereof, if the toll be not paid, or sufficient cause for non-payment be not shown to the satisfaction of the Deputy Collector or other officer as aforesaid, such officer may sell the thing detained, or, in the case of a boat, such part of the tackle or lading thereof, or, in the case of a raft or float, such part of the same as may be necessary for the recovery of the toll, and shall pay the overplus, if any, to the owner on demand.

Penalty for unlawful detention.

IV. Any person who, under colour of this Act, shall unlawfully detain any boat, timber, raft, or float, or shall neglect, or without lawful excuse delay to report the detention of any boat, timber, raft, or float to the Deputy Collector or other officer as aforesaid, or shall demand or receive as toll any larger sum than is authorized by the Schedule annexed to this Act, shall, on conviction before a Magistrate, or other officer exercising the powers of Magistrate, forfeit a sum not exceeding two hundred Rupees.

Government may authorise any person to carry out objects of Act.

V. For the purpose of carrying out the objects of this Act, the Lieutenant-Governor of Bengal may authorize any public officer to cut any canal, clear and deepen any channel, stop any water-course, or take any other measures which may be judged necessary for making the river navigable as aforesaid, or may grant the like authority to any private person who may undertake to carry out those objects at his own expense; and may take possession, as for a public purpose, of any land that may be necessary for the execution of any of the above-mentioned works, under the provisions of Regulation I. of 1824, or of any Act that may hereafter be in force for taking possession of land for public purposes, whether the said works are to be executed at the expense of Government, or of such private person as aforesaid.

And may make a grant of the tolls.

VI. If the Lieutenant-Governor shall grant authority to any private person to carry out the objects of this Act at his own expense, he may also make a grant of the said tolls to such person upon such conditions and for such a term as to the said Lieutenant-Governor shall appear just and proper, and may authorize such person, or any person or persons employed by him, to collect the said tolls.

SCHEDULE

Of tolls chargeable on boats, timbers, rafts, and floats, passing into or through the Kurratiya river within the district of Bogra.

Budgerows, Bauleahs, and other Boats for personal accommodation	4 annas per oar.
Boats of burthen, empty	At the rate of 2 annas per 100 mds. burthen.
Ditto ditto laden with bricks, tiles, and earthenware; straw, grass, reeds, and fire wood, fruit, and vegetables.....	At the rate of 4 annas per 100 mds. burthen.
Ditto ditto with grain, pulse, seeds, and any other article not expressly enumerated	At the rate of 12 annas per 100 mds. burthen.

Timbers in rafts or otherwise, not being in boats, 2 annas each timber.

Bamboos in floats, 4 annas per hundred bamboos.

Every boat less than 50 maunds burthen shall be rated as 25 maunds—every boat of 50 maunds and less than 75 maunds shall be rated as 50 maunds—every boat of 75 maunds and less than 100 maunds shall be rated as 75 maunds—every boat of 100 maunds and less than 125 maunds shall be rated as 100 maunds, and so on.

Any number of bamboos less than an even hundred shall be rated as 100.

MADRAS.—REVENUE.

ACT No. XXIII. OF 1856.

[*Received the assent of the G. G. on the 5th Dec.*, 1856.

Recites doubts as to existing law.

1. Revenue on lands settled direct with ryots, a Government Khas collection within Reg. 28 of 1802, sec. 38.

2. Past arrears to be collected under this Act. Indemnity to Collectors, &c., for hitherto acting under Reg. 28 of 1802.

An Act for the better recovery of arrears of Revenue under Ryotwar Settlements in the Madras Presidency.

Preamble.

Whereas doubts have arisen whether the provisions of Section XXXVIII., Regulation XXVIII., 1802, of the Madras Code, are applicable to lands under Ryotwar Settlements, it is enacted as follows:

Section 38, Regulation XXVIII. of 1802, applicable to lands under Ryotwar Settlements.

I. The collection of the Government Revenue, due on account of lands under settlement direct with the ryots, shall be deemed a Khas collection on the part of Government within the meaning of Section XXXVIII., Regulation XXVIII. of 1802.

Recovery of past arrears.

II. All past arrears of such Revenue shall be collected according to the provisions of this Act: and every Collector and other Revenue officer is hereby indemnified for any thing heretofore done for the recovery of arrears of such Revenue in accordance with the provisions of the said Section XXXVIII., Regulation XXVIII. of 1802.

Repealed by Act XXXIX., 1858.

BENGAL.—MARINERS' AND WIDOWS' FUND SOCIETY.

Act No. XXIV. of 1856.

[*Received the assent of the G. G. on the* 19*th Dec.*, 1856.

Recites petition of directors for winding up Act.

1. Power to Supreme Court to proceed summarily on petition to wind up;

2. With power to employ an actuary.

3. Order may be made, by consent, for commutation of any pensions.

4. Order may be made providing for uncommuted pensions, and also making any arrangement with Life Assurance Co. as to commuted or uncommuted pensions.

5. Guardians or mothers of minors may consent.

6. Surplus may be divided among pensioners or those entitled to become pensioners, &c.

7. Dividends of unascertained surplus may be paid.

8. Proceedings in winding up as in administration suits, for bringing in of creditors, &c.

An Act to provide for the dissolution of the Bengal Mariners and General Widows' Fund Society, and the distribution of the funds belonging thereto.

This Society has been dissolved, and its funds distributed under a Decree of the Supreme Court.

CALCUTTA, MADRAS, BOMBAY, AND STRAITS' SETTLEMENTS.—MUNICIPAL RATES.

ACT No. XXV. OF 1856.

[*Received the assent of the G. G. on the* 19*th Dec.*, 1856.

Recites expediency of consolidating the law herein.

1. Provisions of this Act to apply whenever not expressly excluded by special Act.

2. Appointment, &c., of officers by Commissioners.

3. Assessment to be as follows:

4. Estimated gross annual rent to be annual value of house, &c., not including machinery.

5. Commissioners to make yearly valuation. Valuation, how to be registered.

6. When name unknown, "owner" or "occupier" to suffice.

7. Measures to be taken by Commissioners to obtain valuation. Obstructing Commissioners; penalty, fine to two hundred rupees.

8. Valuation, how to be published and advertised. Refusing to permit owner or occupier or agent to inspect book of registry and make extracts; penalty, fine to fifty rupees.

9. How notice of assessment to be given: how complaints to be made and adjudicated;

10. And assessment made for current year.

11. Assessment may be amended.

12. Old assessment and old book may be adopted or altered, so that notice be given.

13. Taxes on vehicles and animals to be assessed as follows:

14. List of persons with their liability to be kept in public book.

15. Public to fill up and return schedules when sent. Refusing or neglecting or falsifying; penalty, to two hundred rupees.

16. Commissioners may summon any party or his servant and examine as to liability. Refusing to attend or answering falsely; penalty, fine to two hundred rupees.

17, 18. Appeals against assessment.

19. If no appeal assessment conclusive.

20, 21, 22, 23, 24, 25, 26. Rate, how recoverable by distress and sale.

27. Commissioners may sue instead of distress.

28. Notices, &c., how to be served.

29. Formal errors in assessment or demand not to vitiate.

30. Obstructing Commissioners or their servants; penalty, fine to fifty rupees.

31. Officer receiving or attempting to get unauthorized gratuity, or being interested in any contract of Commissioners; penalty, dismissal and incapacity for employment by Commissioners, and fine to five hundred rupees.

32. One month's notice of action against Commissioners or any one acting under their direction.

33. Receipts and disbursements to be yearly published and audited.

34. Summary of municipal convictions to be furnished to Commissioners, monthly.

35. Commissioners may mortgage rates with Government sanction, to defray cost of permanent works and to an amount not exceeding ten times average annual collection.

36. Interpretation clause.

An Act to comprise in one Act the provisions necessary for the assessment and collection of Municipal rates and taxes in the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Preamble.

Whereas it is expedient to comprise in one Act the provisions necessary for the assessment and collection of certain rates and taxes to be imposed by special Acts for the Towns of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales' Island, Singapore, and Malacca, for raising funds for Municipal purposes, it is enacted as follows:

Application of Act.

I. The provisions of this Act, save so far as they may be expressly varied or excepted by the special Act for any of the said Towns or for the said Settlement, shall apply to the assessment and collection of the rates and taxes imposed by such special Act, and to the Commissioners appointed thereby for the conservancy and improvement of such Town or of any station of the said Settlement; and such special Act, and such provisions of this Act as shall not be expressly varied or excepted by the special Act, shall be construed together as forming one Act.

Appointment of Officers.

II. The Commissioners may from time to time appoint such officers as they shall think necessary and proper to assist in the execution of this and the special Act, and may from time to time remove any of such officers, and appoint others in their places, and may, with the sanction of the Local Government, pay such salaries and allowances to the said officers respectively as the Commissioners shall think reasonable. Provided that no person shall be appointed to or removed from any office, the monthly salary of which exceeds two hundred Rupees, without the sanction of the Local Government.

Assessment upon annual value of property.

III. The rate or rates imposed upon houses, buildings, and lands according to the annual value thereof, in any of the said Towns or in the Settlement, by the special Act, shall be assessed in the manner hereinafter provided.

Annual value, how to be ascertained.

IV. The estimated gross annual rent at which the houses, buildings, and lands liable to the rate might reasonably be expected to let from year to year shall, for the purposes of the rate, be held and deemed to be the annual value of such houses, buildings, and lands. The value of a house or building so estimated shall not include the value of any machinery contained therein.

Valuation to be made and entered in a book.

V. For the purpose of such assessment as aforesaid, the Commissioners shall from year to year cause a valuation to be made of all houses, buildings, and lands liable to the rate. Such valuation, estimated as is hereinbefore provided, shall be entered in a book to be kept at the office of the Commissioners, wherein shall also be written in distinct columns the name of the owner of the property; or, if the occupier, and not owner, is the person liable to pay the rate, the name of the occupier; a designation of the property either by name or number sufficient to identify the same together with the name of the street or district in which such property is situate, and the amount of the rate assessed thereon.

Description of owner or occupier if name unknown.

VI. When the name of the owner or occupier is not known, it shall be sufficient to designate him in the said book, and also in any notice or other proceeding under this Act, as the "owner"

or the "occupier" of property on which the rate is assessed without further description.

Returns may be required for purpose of valuation.

VII. In order to enable the Commissioners to arrive at a fair valuation of any houses, buildings, or lands liable to the rate, it shall be lawful for the Commissioners to require the owner or occupier of such houses, buildings, or lands to furnish them with returns of the rent or annual value thereof; and for the like purpose, it shall be lawful for the Commissioners, or any person or persons appointed by them for that purpose, at any time to enter and inspect such houses, buildings, or lands after having given forty-eight hours' previous notice of such their intention to the occupier thereof; and whoever refuses or fails to furnish any such return for the space of one week from the day on which he shall have been required so to do, or knowingly makes a false or incorrect return; and whoever hinders, obstructs, or prevents, any one of the Commissioners or any person appointed by them as aforesaid from entering or inspecting any such houses, buildings, or lands, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred Rupees.

Power to enter houses, &c.

Public notice of valuation to be given.

VIII. When the valuation has been completed, the Commissioners shall give public notice thereof, and of the place where the said book containing the valuation and the rate assessed, or a copy of the said book, may be inspected, in the "Government Gazette" (if any), and by advertisement in some newspaper circulating within the Town or station, and also by placards posted up in conspicuous places throughout the same; and the person in whose custody such book may be shall permit every person claiming to be the owner or occupier of property included in the assessment, or the agent of such owner or occupier, to inspect the book and to make extracts therefrom without payment of any fee; and any such person who wilfully neglects or refuses to permit the same, shall be liable, on conviction before a Magistrate, to a penalty of fifty Rupees.

Notice of time of revising assessment.

IX. The Commissioners shall at the time and in the manner in the preceding Section mentioned, give public notice of a day, not being less than

fifteen days from the publication of such notice, when they will proceed to revise the said valuation and assessment; and in all cases in which any property is for the first time assessed, or in which the valuation of any property previously assessed is increased, shall give special notice thereof to the owners or occupiers of such property. All complaints against such valuation and assessment shall be made on or before the day fixed in the notice; and all complaints so made shall be enquired into by the Commissioners, and such amendments shall thereupon be made in the said book as to the Commissioners shall appear just and proper.

After revision, assessment book to be signed.

X. After the complaints have been enquired into, and after the revision of the valuation and assessment has been completed, the amendments made in the said book shall be authenticated by the signatures of two of the Commissioners, who shall at the same time certify under their signatures that no valid objection has been made to the valuation and assessment in the said book entered, except in the cases in which amendments have been made as shown therein; and thereupon, and subject to such alterations and amendments as may thereafter be duly made, the rate so assessed shall be deemed to be the rate for the whole year in and for which the assessment is made, and such year shall commence on the 1st day of January.

Rate assessed to be deemed the rate for the whole year.

Alteration or amendment of assessment.

XI. Provided always, that the Commissioners, upon the representation of parties or other information, may at any time amend the said book by inserting therein the name of any person whose name ought to be so inserted, or any property liable to the rate; or by striking out the name of any person or any property not liable to the rate, or by reducing the amount of the rate: and in all cases in which any property is inserted as liable to the rate, the amendment shall be considered to have been made at the time when the person interested first received notice thereof.

New assessment book need not be prepared yearly.

XII. It shall not be necessary to prepare a new book every year, but the Commissioners may adopt the valuation and assessment contained in the book for the preceding year, with such alterations

as may, in particular cases, be deemed necessary, as the valuation and assessment for the year following. Provided always, that public notice of such valuation and assessment shall be given in the manner prescribed in Section VIII. of this Act; and the provisions of the said Section and of the three following Sections shall be applicable to the said valuation and assessment, and to the book or books in which it is contained.

Taxes upon vehicles and animals.

XIII. The taxes imposed upon vehicles and animals in any of the said Towns or in the said Settlement by the special Act, shall be assessed in the manner hereinafter provided.

List of persons liable to the tax to be entered in a book.

XIV. The Commissioners shall, from time to time, cause to be prepared and entered in distinct columns in a book to be kept at the office of the Commissioners, and to be open to the inspection of any person interested therein, a list of the persons liable to the payment of such taxes, a description of the vehicles and animals in respect of which they are liable, and the amount of the taxes assessed thereon.

Returns may be required for purpose of making list.

XV. In order to enable the Commissioners to make such list, the Commissioners, or any officer authorised by them, may send to all persons supposed to be liable to the payment of such taxes a schedule to be filled up with such information respecting the vehicles and animals kept by them as the Commissioners may judge necessary for the assessment of the taxes. The schedule shall be filled up in writing, and signed, and dated, and returned to the office of the Commissioner by every person to whom it is sent, whether or not liable to the payment of such taxes; and whoever refuses, neglects, or omits, duly to fill up and return such schedule within one week from the receipt thereof, or knowingly gives therein any incorrect or false return shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred Rupees.

Power to summon person liable to the payment of the taxes.

XVI. The Commissioners may summon any person supposed to be liable to the payment of such taxes, or any servant of such person, and may examine such person or his servant as to the number and description of the horses and carriages in respect of which

such person is liable to be assessed. If the person summoned shall, without lawful excuse, fail to appear in pursuance of the summons, or shall refuse to answer any lawful question of the Commissioners, or knowingly give an incorrect answer, he shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred Rupees.

Hearing of Appeals.

XVII. Appeals against any rate or tax assessed under the provisions of this or the special Act, shall be heard and determined, in the Towns of Calcutta and Madras, by two Magistrates, in the Town of Bombay by the Court of Petty Sessions, and in the said Settlement by Her Majesty's Court of Judicature. But no such appeal shall be heard unless the amount of the rate or tax has been deposited with the Commissioners; and no appeal against a rate assessed by the Commissioners under Section X. shall be heard unless complaint has been previously made to the Commissioners as hereinbefore provided. The mode of proceeding in such appeals shall be the same as that prescribed for the determination of matters referred to two Magistrates by Act XIV. of 1856, or as near thereto as may be. Provided that such Magistrates, and such Court of Petty Sessions, may, if they shall think fit, state a case for the opinion of the Supreme Court.

Time of appeal.

XVIII. Every such appeal shall be commenced within ten days after the accrual of the cause of complaint, which shall, in respect of any rate, be deemed to accrue on the date of the certificate of the Commissioners in the said book or, in case of any subsequent amendment of the said book under the provisions of Section XI., upon the receipt by the person aggrieved of notice of such amendment; and in respect of any tax, the cause of complaint shall be deemed to accrue upon the receipt by the person aggrieved of a bill for the sum claimed from him.

If no complaint, rates, &c., to be final.

XIX. The assessment by the Commissioners of any rate or tax, when no appeal therefrom is made as hereinbefore provided, and the adjudication of any appeal under Section XVII. shall be final and conclusive.

Form of Bill to be presented.

XX. When any rate or tax is due, the Commissioners shall cause to be presented to the person liable to the payment thereof a bill for the sum

due, which shall also contain a statement of the period and a description of the property or thing for which the rate or tax is charged. If the bill be for any tax, it shall also contain a notice of the time within which an appeal against such tax may be preferred.

Notice of demand.

XXI. If the bill is not paid by the person liable to pay the same within five days from the presentation thereof, the Commissioners may cause to be served upon such person a notice of demand in the form (A) contained in the Schedule to this Act, or to the like effect; and if he shall not, within five days from the service of such notice of demand, pay the sum due, or show sufficient cause for non-payment of the same to the satisfaction of the Commissioners, and if no appeal shall have been preferred, such sum, with all costs, may be levied by distress and sale of the goods and chattels of the defaulter, or if the defaulter be the occupier of any house, building or land in respect of which a rate is due, by distress and sale of any goods and chattels found on the premises, under a warrant in the form (B) in the Schedule, or to the like effect, to be issued for that purpose by the Commissioners.

Distress.

Inventory—Notice of distress.

XXII. The officer charged with the execution of the warrant of distress shall make an inventory of the goods and chattels seized under any such warrant, and shall at the same time give a notice in writing, in the form (C) contained in the Schedule annexed to this Act, to the person in possession thereof at the time of the seizure, that the said goods and chattels will be sold as therein mentioned.

Sale.

XXIII. If the warrant is not in the mean time discharged or suspended by the Commissioners, the goods and chattels seized shall be sold under the orders of the Commissioners who shall apply the proceeds, or such part thereof as may be necessary, in discharge of the said arrears and costs; and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure. The fees payable upon distraints under this Act shall be such as are set forth in the Table of Fees in the said Schedule.

Fees.

Goods of defaulter wherever found may be distrained.

XXIV. The goods and chattels of any person from whom any rate or tax is due, may be distrained wherever the same may be found, for default in the payment of the money due from such person.

Rate due from owner may be recovered from occupier and deducted by him from rent.

XXV. If the sum due on account of any rate from the owner of any house, building or land, remains unpaid, after notice of demand has been duly served, the Commissioners may demand the amount from the occupier for the time being of such house, building or land, and on non-payment thereof, may recover the same by distress and sale of any goods and chattels found on the premises; and, in such case, the occupier may deduct from the next and following payments of his rent the amount which may be so paid by or recovered from him. Provided that no arrear of rate which has remained due from the owner of any house, building, or land, for more than one year, shall be so recovered from the occupier thereof.

Distress not unlawful for want of form.

XXVI. No distress levied by virtue of this or the special Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the notice, schedule, summons, notice of demand, warrant of distress, inventory, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity, may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Commissioners may sue instead or on failure of distress.

XXVII. Instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of the sum due in respect of any rate or tax, the Commissioners may sue the person liable to pay the same in any Court of competent jurisdiction.

Service of notices.

XXVIII. Every notice, schedule, summons, or notice of demand regarding any assessment, rate, or tax, or any money due in respect of the same may be served personally upon the person to whom the same is addressed, or be left at his usual place of abode with

some adult male member or servant of his family, or if it cannot be so served, may be put up on some conspicuous part of such place of abode, and shall thereby be deemed to be duly served.

Proviso.

Provided that, if the place of abode of the owner of any house, building, or land in respect of which a rate is assessed be unknown, or if the owner of any such house, building or lane, be not resident within the limits of the Town or Station, every such notice, summons, or notice of demand shall be deemed to be duly served if put upon some conspicuous part of the house, building, or land in respect of which the rate is assessed.

Assessment, &c., not to be impeached for want of form.

XXIX. No assessment and no charge or demand of the rate or tax made under the authority of this or the special Act, shall be impeached or affected by reason of any mistake in the name of any person liable to pay the rate or tax, or in the description of any property or thing liable to rate or tax, or any mistake in the amount of assessment, provided the directions of this Act and of the special Act, be in substance and effect complied with; and no proceedings under this or the special Act shall be quashed or set aside for want of form in any Court of Justice.

Obstruction of Commissioners or their servants.

XXX. Whoever wilfully obstructs or molests the Commissioners, or any of them or any of their officers or servants in the performance of their respective duties under this Act, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees.

Penalty on officer taking fees or being interested in contracts.

XXXI. Every officer employed by the Commissioners to assist in the execution of this and the special Act, who accepts or obtains, or attempts to obtain, any fee or gratuity whatsoever, other than his authorized salary or allowances, for doing or forbearing to do any official act; or who shall be in any wise concerned or interested in any bargain or contract made by the Commissioners, shall be removed from his office, and shall be incapable of being afterwards employed by the Commissioners, and shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred Rupees.

No writ or process to be issued against Commissioners or their officers until after one month's notice of cause of action.

XXXII. No action shall be brought against the Commissioners, or any of their officers, or any person acting under the direction of the Commissioners for any thing done or intended to be done under the powers of this or the special Act, until expiration of one month next after notice in writing shall have been delivered or left at the office of the Commissioners, or at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff and of his attorney or agent in the cause; and upon the trial of any such action, the plaintiff shall not be permitted to go into evidence of any cause of action, except such as is stated in the notice so delivered; and unless such notice be proved, the Court shall find for the defendant; and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards; and if any person to whom any such notice of action is given shall, before action brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover in any such action when brought; and if no such tender shall have been made, it shall be lawful for the defendant in such action, by leave of the Court where such action shall be pending, at any time before issue joined, to pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

Commissioners to publish annual statements.

XXXIII. The Commissioners shall, as soon after the First day of January in every year as may be practicable, prepare a detailed statement showing the nature and amount of the receipts and disbursements on account of the Municipal Fund for the past year, and also a report of their proceedings during that year; and such statement and report shall be printed and published for general information.

Audit of accounts.

The accounts of the said funds shall be audited annually by such person as the Local Government shall appoint.

Summary of convictions to be furnished to the Commissioners.

XXXIV. For better enabling the Commissioners to ascertain the amount of fines and penalties payable to them on account of the Municipal Fund under the provisions of Act XIV. of 1856,

or of the special Act, of any other law, there shall, in every month, be furnished to them, by the authority adjudicating the same, a summary of all convictions under the said Acts, or under any such other law, during the preceding month.

Mortgage of rates.

XXXV. It shall be lawful for the Commissioners, with the sanction of the Local Government, to borrow and take up at interest, on the credit of the rates and taxes imposed and levied on account of the Municipal Fund under the special Act or any other Act passed in that behalf, or of a portion of them, any sums of money necessary for defraying any expenses incurred or to be incurred by them in the execution of any such Act or of Act XIV. of 1856; and for the purpose of securing the re-payment of any sums so borrowed, together with such interest as aforesaid, the Commissioners may mortgage and assign over, to the person by or on behalf of whom such sums shall be advanced, the rates and taxes or the portion of them upon the credit of which such sums shall be borrowed. Provided always that the money borrowed under the authority of this Act shall be borrowed only for works of a permanent nature, and shall not at any time exceed in the whole ten times the average annual sum received and collected on account of the Municipal Fund.

Interpretation.

XXXVI. The following words and expressions in this and the special Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:—

"Magistrate."

The word "Magistrate" shall mean any Magistrate of Police acting for the place where the matter requiring the cognizance of a Magistrate arises.

"Town."

The word "Town" shall include all places within the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature at Calcutta, Madras, and Bombay.

"Station."

The word "Station" shall mean any one of the Stations of Prince of Wales' Island, Singapore, and Malacca, and the dependencies thereof.

"Owner."

The word "Owner" shall mean the person for the time being receiving the rent of the land or premises in connexion with such the word is used,

whether on his own account or as agent or trustee for any other person, or who would so receive the same if such land or premises were let to a tenant.

"Number." Words importing the singular number shall include the plural number; and words importing the plural number shall include the singular number.

"Gender." Words importing the masculine gender shall shall include females.

"Person." The word "person" shall include a corporation.

SCHEDULE.

A

Notice of Demand.

Take notice that the Municipal Commissioners demand from you the sum of due from *[you] as owner (*or occupier*) of (*here describe the property or thing upon which the rate or tax is imposed*) for the months of 185 ; and that if the sum due is not paid into the said Commissioners Office at , or if sufficient cause for the non-payment of the sum is not shown to the Commissioners within five days from the service of this notice, a warrant of distress will be issued for the recovery of the same with costs.

(*Signature of one of the Muncipal Commissioners.*)

Date———

B.

Distress Warrant.

To (*here insert the name of the officer charged with the execution of the warrant.*)

Whereas of has not paid or shown sufficient cause for the non-payment of the sum of Rupees due for the rates (*or taxes or rates and taxes* mentioned in the margin for the months of ( ) 185 although the said sum has been duly demanded in writing from

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* In the case of a demand under Section XXV., state that notice of demand been served upon the owner, and that the sum due remains unpaid.

the said ( ) and five days have elapsed since the service of the notice of demand: This is to command you to distrain the goods and chattels of the said

(*or, as the case may be, any goods and chattels found on the premises referred to*) to the amount of the said sum of rupees, and such further sum as may be sufficient to defray the charges of taking, keeping, and selling such distress; and if, within five days next after such distress, the said sum shall not be paid, together with such further sum as may be sufficient to defray the charges of taking and keeping such distress, to sell the said goods and chattels; and having paid and deducted out of the proceeds of the sale the said sum of Rupees and the charges of taking, keeping, and selling such distress, to return the surplus, if any, on demand, to the person whom you shall find in the possession of the said goods and chattels. If sufficient distress cannot be found of the goods and chattels of the said

, you are to certify the same to us together with this warrant.

(L.S.) *The Municipal Commissioners.*
And Signature of one of the Municipal Commissioners.

C

Form of Inventory and Notice.

STATE PARTICULARS OF GOODS SEIZED.

Take notice that I have this day seized the goods and chattels specified in the above inventory for the sum of
rupees due for the rates (*or taxes*) mentioned in the margin for the months of 185 ; and that, unless you pay into the Office of the Municipal Commissioners the amount due, together with the costs of this distress, within five days from the day of the date of this notice, the goods and chattels will be sold.

(*Signature of the officer executing the warrant of distress.*)

Date———

Table of Fees payable in distraints under this Act.

Sum Distrained for.	Fee.	
	Rs.	As.
Under 5 Rupees	0	8
5 and under 10 Rupees	1	0
10 „ 15 „	1	8
15 „ 20 „	2	0
20 „ 25 „	2	8
25 „ 30 „	3	0
30 „ 35 „	3	8
35 „ 40 „	4	0
40 „ 45 „	4	8
45 „ 50 „	5	0
50 „ 60 „	6	0
60 „ 80 „	7	8
80 „ 100 „	9	0
Above 100 „	10	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case four annas must be paid daily for each man.

By Acts XXVI., XXVII., XXVIII. of 1856, and Act XXV., 1858, these several Acts are to be read as one Act.

Repealed by Act VI., 1863, of the Bengal Council so far as it relates to Calcutta; by Act II., 1865, of the Bombay Council, as respects Bombay; and by Act IX., 1865, of the Madras Council, as respects Madras. It still remains in operation in the Straits' Settlements.

MADRAS.—MUNICIPAL RATES.

Act No. XXVI. of 1856.

[*Received the assent of the G. G. on the 20th Dec.*, 1856.

Recites that existing laws are insufficient and expediency of providing ample funds for conservancy and improvement of the town.

1. Laws repealed.
2. Existing assessment to be in force until altered.
3. Act XXV. of 1856 incorporated with this Act.
4. Three Commissioners to be appointed at pleasure of Governor in Council.
5. Who shall appoint one of the three Presidents.

6. Style of Commissioners: Commissioners incorporated.

7. Times of meeting: Quorum.

8. Salaries of Commissioners.

9. Annual rate, not exceeding 7½ per cent. Of annual value, on buildings and lands to be fixed by Governor in Council and published in Gazette.

10. Assessment to be within first quarter of each year, payable from end of that quarter.

11. Houses, &c., occupied by garrison or for public worship not rateable.

12. Commissioners may exempt certain houses, &c., from assessment.

13. Power to remit rate during vacancy of building, as specified.

14. Tax to be imposed on vehicles, horses and ponies if kept within three miles of the town; at rates specified.

15. Certain vehicles and animals exempted.

16. Having vehicle, &c., for more than thirty days in any quarter to subject to tax: notice of transfer of vehicle, &c., to be given to Commissioners.

17. Commissioners may remit tax while carriage under repair for more than thirty days.

18. Commissioners may compound with persons keeping carriage, &c., for hire for the year's taxes.

19. Carriages, carts and bandies, when and how to be registered.

20. Penalties for non-registry.

21. Not entering carriage, &c., in schedule under sec. 15 of Act XXV.; penalty, as in that section.

22. In what cases tax at non-registered carriage may be remitted.

23. Service of notices.

24. This Act not to affect vehicles or animals kept beyond three miles from the town and temporarily brought into town.

25. Moneys received to be "The Municipal Fund of Madras" and available for this Act and Act XIV. and XXV.

26. Fines and penalties to go to the Municipal Fund.

27. Act to commence from 1st January, 1857.

An Act for appointing Municipal Commissioners, and for levying rates and taxes, in the Town of Madras.

Repealed by Act IX., 1865, of the Madras Council.

STRAITS' SETTLEMENTS.—MUNICIPAL ACT.

Act No. XXVII. of 1856.

[*Received the assent of the G. G. on the 20th Dec.*, 1856.

Recites expediency of better provision.

1. Act IX. of 1848 repealed, with exceptions.

2. Commissioners and assessment under Act IX. of 1848 to remain until changed.

3. Act XXV. of 1856 incorporated with this Act.

4. Five Commissioners at each station to be a Corporation.

5. Commissioners to be, Resident Councillor (President), one appointed by Governor and three elected by ratepayers.

6. Annual rate of forty rupees qualifies for Commissioner.

7. Annual rate of twenty-five rupees qualifies to vote.

8. List of voters and persons qualified, how to be prepared, published and revised.

9. 10, 11, 12, 13, 14, 15. Elections, how to be conducted.

16. If election of three impracticable, Governor may appoint one.

17. How vacancy before time for election to be filled up.

18. How public notice of appointed and elected Commissioners to be given.

19. Commissioners appointed for the year.

20. Meetings of Commissioners, how to be conducted.

21. Governor to fix rate, which shall not exceed ten per cent. annual value of buildings and five per cent. of land.

22. What public buildings excepted.

23. Commissioners may exempt certain private houses, &c.

24. When building exempted during vacant occupation.

25. Rates of tax on vehicles.

26. Hired carriages and waggons and carts to be registered, also transfer of ownership.

27. Penalty for non-registry; fine to ten rupees, and seizure and sale of vehicles and horses, &c.

28. "Municipal fund," how to be managed and disbursed.

29. Fines, fees, &c., to go to Municipal fund.

30. Act to commence from 1st January, 1857.

An Act for appointing Municipal Commissioners, and for levying rates and taxes, in the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Preamble.

Whereas it is expedient to make better provision for the appointment of Commissioners for the conservancy and improvement of the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca, and for assessing and levying rates and taxes for certain Municipal purposes in the said stations, it is enacted as follows:

Act repealed.

I. Act IX. of 1848 is hereby repealed, except so far as it repeals any other Act, and except as to any assessment or tax which shall be unpaid and as to any proceeding for the recovery of the same which shall have been commenced, before this Act shall come into operation.

II. The Municipal Committees and other persons heretofore appointed or acting under Act IX. of 1848, shall carry this Act into execution until other persons shall be appointed or elected under the provision herein contained; and the assessment and taxes payable under the said Act shall, until duly altered, respectively remain in full force and effect, and shall be levied and recovered as rates and taxes payable under this Act.

Present Committees and assessment continued.

III. Act XXV. of 1856, entitled "An Act to comprise in one Act the provisions necessary for the assessment and collection of Municipal rates and taxes in the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca," is incorporated with this Act; and in construing the said Act as incorporated with this Act, the expression "the special Act" shall mean this Act, the expression "the Commissioners" shall mean the Municipal Commissioners constituted by this Act, and the expression "the Local Government" shall mean the Governor of the said Settlement.

Act XXV. of 1856, incorporated with this Act.

Constructions.

IV. At each of the stations of Prince of Wales' Island, Singapore, and Malacca, there shall be a Committee of not more than five persons, who shall be called respectively "The Municipal Commissioners of Prince of Wales' Island," and "The Municipal Commissioners of Singapore," and "The Municipal Commissioners of Malacca," and who shall respectively by such name be a body corporate and have perpetual succession and a common seal, and by such name shall sue and be sued.

Municipal Commissioners incorporated.

V. At each of the said stations, the Resident Councillor shall be one of the Municipal Commissioners, one shall be appointed by the Governor of the Settlement, and three shall be elected by the ratepayers in the manner hereinafter provided. The Resident Councillor shall be the President of the Commissioners.

Official and elected Commissioners.

VI. Every ratepayer, whose annual payment of rates under this Act shall amount to Forty Rupees and upwards, shall be qualified for election as a Municipal Commissioner for the station at

Qualification for election as a Municipal Commissioner.

which he resides and where the property for which the rates are paid is situate.

Voters' qualification.

VII. Every ratepayer, whose annual payment of rates under this Act shall amount to the sum of Twenty-five Rupees and upwards, shall be entitled to vote in the election of the three elective Commissioners of the station where the property for which the rates are paid is situate.

List of voters.

VIII. The Municipal Commissioners of each station shall, previously to an election under this Act, cause to be prepared correct lists of the persons qualified to be elected and qualified to vote for the election of Commissioners: and these lists shall be published and shall be open to public inspection at the Office of the Commissioners between the hours of ten in the morning and three in the afternoon on every day (Sundays excepted) between the Thirty-first October and the day of election, when the said lists shall be taken to the place of election for the use of the Sheriff or his Deputy. The said lists may be revised or amended by the Court of Judicature of the station on the application of any person qualified to vote at any such election, provided that such application be made at least ten days before the day of election.

Revision.

Election of Commissioners.

IX. Elections under this Act shall be made on one of the first seven days of December under the superintendence of the Sheriff of the Settlement or one of his Deputies, who shall appoint the day and place of election within each station, and shall give public notice of the same fifteen days at least before the day appointed.

Time of voting.

X. The voting shall begin at the hour of ten in the morning, and shall end at the hour of five in the afternoon of the appointed day.

Voting tickets.

XI. At the time and place appointed for the election, the Sheriff or his Deputy shall attend with a closed box with an opening for the reception of voting tickets. Every voting ticket shall bear the signature of the voter and the names of the persons for whom he wishes to vote.

Manner of voting.

XII. Every voter having written on his voting ticket the names of the persons for whom he wishes to vote, and, having signed the same, shall per-

sonally attend at the place of election, and shall deliver his voting ticket to the Sheriff or his Deputy, who, on being satisfied of the identity of the person tendering the voting ticket with the person whose signature it bears, and that the name of such person is registered in the list of persons qualified to vote, shall deposit such voting ticket in the closed box.

Sheriff to declare who are elected.

XIII. As soon as the election is completed, the Sheriff or his Deputy, in the presence of the voters or such of them as shall be present, shall ascertain the number of votes given for each person; and the Sheriff or his Deputy shall thereupon publicly declare the names of the three persons for whom the greatest number of votes has been given, and shall declare such persons to be duly elected Municipal Commissioners of the station.

Refusal to serve.

XIV. In case any one of the persons so elected shall refuse to serve as a Municipal Commissioner, the Sheriff or his Deputy shall, immediately after such refusal, declare the name of the person for whom the next greatest number of votes has been given, and shall declare such last-mentioned person to be duly elected a Municipal Commissioner in the place of the person first elected. Provided always, that no person shall be competent to be elected a Municipal Commissioner of either of the said stations, unless the number of votes given in his favor shall exceed ten.

Minimum of votes requisite for election.

Casting vote.

XV. In case there shall be an equal number of votes for any two or more persons at any such election, the Governor of the Settlement, or, in his absence from the station at which such election is being made, the Resident Councillor shall give a casting vote for one or more of such persons having an equal number of votes. [Temporarily suspended by Act XVII., 1863, s. 1.]

Appointment in default of election.

XVI. In case it shall be found impracticable to obtain by election three Municipal Commissioners at any of the said stations, from refusal to act, failure of election, or otherwise, it shall be lawful for the Governor of the Settlement, or, in his absence from the station, for the Resident Councillor, to appoint some person, being a qualified ratepayer, to be a Municipal Commissioner; and such appointment

shall be as valid and effectual as if the person so appointed had been elected in manner hereinbefore provided for.

Appointment in case of vacancy before the time of a new election.

XVII. If from death, resignation, or any other cause, a vacancy shall happen before the time of a new election, it shall be lawful for the Governor of the Settlement, or, in his absence from the station, for the Resident Councillor, to declare the person for whom, next after the elected Commissioners, the greatest number of votes was given at the last election to be a Municipal Commissioner; or if there be no person for whom the prescribed number of votes was given, to appoint some person being a qualified ratepayer.

Publication of the Commissioners' names.

XVIII. The names of the persons elected at every election shall be certified by the Sheriff or his Deputy to the Resident Councillor of the station, who shall cause notice thereof, together with the names of the official and appointed Commissioners, to be published in such manner as the Governor of the Settlement may direct.

Tenure of office by Commissioners.

XIX. The Commissioners at each of the said stations shall enter upon their office on the First day of January after their election and appointment, and shall hold their office for one year. Appointments to fill up vacancies shall have effect only for the remaining portion of the year within which they are made. [Repealed by Act XVII., 1863.]

Meetings of Commisioners.

XX. The Commissioners shall hold their first meeting at such time and place as shall be fixed by their President, and their subsequent meetings at such times and places as they shall themselves appoint; and at every such meeting all questions shall be decided by a majority of votes. Three Commissioners shall constitute a quorum, and the President, or, in his absence, the Chairman, who shall be chosen by the Commissioners present, shall have a second or casting vote on all questions on which the Commissioners are equally divided in opinion.

Rate imposed upon houses and lands.

XXI. An annual rate, not exceeding 10 per centum of the annual value, shall be imposed upon all houses and buildings, and not exceeding 5 per centum upon all lands within each station, and shall be payable

by the owners thereof by half-yearly instalments. The rate shall be fixed from time to time by the Governor of the Settlement.

Property not liable to rate.

XXII. Houses and buildings used exclusively as places of public worship or for charitable purposes, hospitals, barracks and lines for soldiers, Courts of Justice, and Police offices and stations, gaols, and convict lines, shall not be liable to the rate.

Property under a certain value may be exempted.

XXIII. The Commissioners may exempt from assessment any house, building, or land, the annual value whereof is less than twelve Rupees, if the same be the sole rateable property of the owner, or any house or hut which shall be occupied rent-free by any labourers employed at a plantation.

Remission of rate when a house is not occupied.

XXIV. When any house or building shall have been vacant for sixty consecutive days during any year, the Commissioners shall remit so much of the rate for that year as may be proportionate to the number of days the said house or building may have remained unoccupied; provided that the owner of such house or building, or his agent, shall have given notice in writing of the vacancy thereof to the Commissioners, and that the amount of rate to be remitted shall be calculated from the date of the delivery of such notice.

Tax upon vehicles and animals.

XXV. A tax shall be imposed upon all carriages, waggons, carts, and all horses, ponies, mules, and elephants kept in each of the said stations, and shall be payable quarterly in advance by the owners or persons having charge of the same at the following rates per annum, namely:—

	Rs.
For every four-wheeled Carriage on springs	24
For every two-wheeled Carriage on springs	18
For every Waggon drawn by man or beast	16
For every Cart drawn by any description of cattle . . .	12
For every Cart drawn by man	8
For every Horse, pony, or mule	4
For every elephant	20

Exemptions.

Provided that the several vehicles and animals hereinafter mentioned shall be exempt from the said tax, namely:—

1. Gun carriages and Ordnance carts and waggons.

2. Horses belonging to Officers doing Regimental duty, at the rate of one horse for each officer.

3. Conservancy carts, horses, ponies, and mules belonging to the Commissioners.

4. All vehicles and animals kept for sale, and not used for any other purpose, provided the same be in the hands of *bonâ fide* dealers in such vehicles or animals.

5. Waggons and carts kept within estates or plantations, and not used upon the public roads, having the name of owner painted upon some conspicuous part thereof in letters not less than two inches in length and registered at the Office of the Commissioners.

6. All animals kept within estates, or plantations and not used upon the public roads.

7. Ponies under 11 hands, and children's carriages the wheels of which do not exceed 24 inches in diameter.

Carriages, &c., to be registered and numbered.

XXVI. Every carriage kept and let out for hire, and every waggon and cart kept and used within any of the said stations, shall be registered in the Office of the Commissioners with the name and residence of the owner, and shall bear the number of such registration in such manner as the Commissioners shall direct. The registration shall be made and the numbers assigned annually upon such day in each year as the Commissioners shall appoint. Any person becoming possessed within the year of any such carriage, waggon, or cart, which has not been registered, may obtain registration on application to the Commissioners at their office. When any registered carriage, waggon, or cart is transferred within the year, it shall be registered anew in the name of the person to whom it has been transferred. A fee of four annas shall be paid for each registration.

Penalty for not registering carriage, &c.

XXVII. Whoever keeps within any of the said stations, any such carriage, waggon, or cart, required to be registered by the provisions of the last preceding Section, without being so registered, shall, on conviction before a Magistrate, be liable to a fine not exceeding ten Rupees; and the Commissioners, or any officer duly authorized by them, may seize or cause to be seized any such carriage, waggon, or cart (provided the same be not employed at the time

of seizure in the conveyance of any passengers or goods), together with the horses, bullocks, or other animals drawing the same, and may deliver them over to the Police; and all Police officers are hereby required, on the application of the Commissioners or their Officer, as aforesaid, to seize and detain the same If the carriage or other vehicle, as aforesaid, be not claimed, or if the fine be not paid within ten days, such carriage or vehicle, together with the animal seized with it, may be sold by order of the Magistrate, and the proceeds applied to the payment of the fine and all costs and charges incurred on account of the detention and sale; and the surplus (if any), if not claimed by the owner within a further period of twenty days, shall be paid to the Municipal Commissioners.

Municipal Fund.

XXVIII. All moneys received by the Commissioners by virtue of this Act, or of Act XIV. of 1856, or of any other Act, at each of the said stations, shall form a fund which shall be called the "Municipal Fund" of the station at which the same shall have been so received; the Municipal Fund of each station shall be under the direction, management, and control of the Municipal Commissioners of such station, who shall, in the first instance, appropriate such sum as may be declared by the Governor of the Settlement to be necessary for the payment and maintenance of the Police force constituted according to Section VII. of Act XIII. of 1856, and for the payment of the office establishments of the Magistrate and of the Commissioner of Police (but not including the salary of any such Magistrate or Commissioner), such sum to be paid at the times and in the manner which the Governor may direct; and shall apply the residue to the purposes of this Act and the incorporated Act, and of Act XIV. of 1856.

Fines, &c., to form part of Municipal Fund.

XXIX. All fines and penalties imposed, and all fees and poundage levied, by the Court of Quarter Sessions or by any Magistrate, and all tolls received at any public Ferry, shall be paid to the Commissioners of the station at which the same shall have been imposed, levied, or received, and shall be carried to the credit of the Municipal Fund of such station.

Commencement of Act.

XXX. This Act shall commence and take effect from and after the First of January, 1857.

CALCUTTA.—MUNICIPAL ACT.

ACT No. XXVIII. OF 1856.

[*Received the assent of the G. G. on the 26th Dec.*, 1856.

Recites expediency of better provision and of additional funds.

1. Laws repealed.

2. One-third assessment already payable for January, 1857, remitted.

3. Act XXV. of 1856, incorporated with this Act.

4. Three Commissioners to be appointed by Lt. Governor of Bengal for this Act and under Act XIV. of 1856.

5. One of the Commissioners to be appointed President.

6. Style of Commissioners; who to be a corporation.

7. Meetings of Commissioners; quorum.

8. Salaries of Commissioners.

9. Rate of seven and a half per cent. on annual value to be imposed on buildings and land, payable by owners quarterly.

10. Houses, &c., in Fort, Fort esplanade, Cooly-bazar, and places of public worship not rateable.

11. Commissioners may exempt certain houses, &c.

12. When house exempt during vacancy.

13. Rates to be imposed on carriages, horses, &c.,

14. Vehicles and animals exempted.

15. Owning or having vehicle, &c., for thirty days to make liable for quarter's tax. Transfer to be registered.

16. When carriage under repair more than thirty days, tax to be proportionately remitted.

17. Commissioners may compound with stable-keepers, &c., for year's tax.

18. Registry of carriages, carts, and hackeries.

19. Penalty for non-registry; fine to ten Rupees and sale of vehicle, &c., to pay fine and expenses.

20. Commissioners, with Government sanction, may contract for gas lighting.

21. Lighting-rate.

22. Occupier subject to lighting-rate.

23. Where house let in lodgings; owner liable.

24. But first lessee to be considered the occupier, not sub-lessee of portions.

25. Provision for drainage and sewerage.

26. Limits of drainage to be defined by Government. Lt.-Governor to fix annual rate not exceeding two and a half per cent. on the annual value.

27. Sections 44 to 60, inclusive of Act XIV. of 1856, to have effect within limits defined under last section, and Local Magistrate to have jurisdiction.

28. Expenses incurred under sections 44, 51, 53 of Act XIV. of 1856, how to be recovered.

29. Provision for supply of water.

30. Municipal fund to be under control of the Commissioners.

31. Fines and penalties to go to the municipal fund.
32. Act to commence 1st January, 1857.

An Act for appointing Municipal Commissioners, and for levying rates and taxes in the Town of Calcutta.

Preamble.

Whereas it is expedient to make better provision for the appointment of Commissioners for the Conservancy and Improvement of the Town of Calcutta, and for assessing and levying rates and taxes for Municipal purposes in the said Town; and whereas it is also expedient to provide additional funds for improving the drainage and lighting of the said Town, it is enacted as follows:

Acts repealed.

I. Act X. of 1852; Section L., Act XII. of 1852, and Act XXVIII. of 1854, are hereby repealed, except so far as they repeal any other Act, and except as to any assessment made before this Act comes into operation. Any sum of money due or which may become due in respect of such assessment may be levied and recovered under the provisions of this Act.

Recovery of arrears of assessment.

Repealed by Act No. VI., 1863, of the Bengal Council, which provides a New Municipal Constitution.

REGISTRARS OF DEEDS.

Act No. XXIX. of 1856.

[*Received the assent of the G. G. on the 26th Dec.*, 1856.

Chief Civil Officer of a station competent to administer oath or declaration of office to Registrar.

An Act concerning the taking of Oaths of Office by Registrars of Deeds.

Preamble.

Whereas it is expedient to amend the law which requires a Registrar of Deeds, appointed under the provisions of Act XXX. of 1838, to take and subscribe the oath of office before the Judge of the Zillah, it is enacted as follows:

Chief Civil Officer of the station to administer oath of office to Registrar of Deeds.

So much of Section II., Regulation XXXVI., 1793 (extended to Cuttack by Section XXXII., Regulation XII., 1805), of Section II., Regulation XXVIII, 1795, and of Section II., Regula-

tion XVII., 1803 (extended to Bundlecund, Saharunpore, and Agra, by Clause I., Section XVII., Regulation VIII., 1805), of the Bengal Code, as requires that a Registrar of Deeds shall take and subscribe the oath therein prescribed before the Judge of the Zillah, shall not apply to Registrars of Deeds appointed under the provisions of Act XXX. of 1838. The Chief Civil Officer of any station at which an office for the Registry of Deeds may be established under the said Act, shall be competent to administer the oath of office, or a declaration substituted for such oath, to any person appointed to register Deeds at such station.

Repealed by Act XVI., 1864.

NATIVE PASSENGER VESSELS.

Act No. I. of 1857.

[*Received the assent of the G. G. on the* 17*th Jan.*, 1857.

Recites expediency of preventing the over-crowding of native passenger vessels:

1. Regulates proportion of native passengers to tonnage in unlicensed vessels.

2. Regulates proportion of native passengers to tonnage and space in licensed vessels generally, and in vessels plying to Ceylon specially.

3, 4. Impose fines for breach of Sections I. and II.

5. Prohibits under a penalty the shipping of more than one native passenger for every four tons of burden from any but appointed ports.

6. Regulates the grant of licenses to passenger vessels.

7. Imposes fine on Master or Tindal, when the vessel is not furnished with provisions and water according to the scale prescribed by Government.

8. Imposes fine for wilfully omitting to supply the prescribed allowance to every passenger.

9. Imposes fine—in the case of passenger-vessels plying to Ceylon—for omitting to lay in the prescribed supplies.

10. Requires a list of all passengers to be signed and delivered to the Government Officer, and to be supplemented if passengers engage after delivery, and authorises Custom's Officer to withhold port clearance till such is furnished.

11. Imposes fine for each native passenger brought into the Madras Presidency beyond the regulated proportion.

12 Authorises the Customs Officer or his deputy to enter and inspect the vessel at all times.

13. States who may impose fines.

14. Act to be in force for three years. Schedule alluded to in section X.

AN ACT to prevent the over-crowding of vessels carrying Native Passengers in the Bay of Bengal.

Preamble.

Whereas it is necessary to prevent the over-crowding of vessels carrying native passengers across the Bay of Bengal from and to ports in the Presidency of Fort St. George, and between such ports and Ceylon, it is enacted as follows:

Number of native passengers to be carried in unlicensed vessels.

I. No vessel shall carry native passengers from any port or place under the Presidency of Fort St. George, to any port or place on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca or in Ceylon, in a proportion greater than one passenger to every four tons of the burden of such vessel, without a license.

Number of native passengers to be carried in licensed vessels generally.

II. No vessel shall be licensed to carry passengers on any such voyage as aforesaid, in a proportion greater than one passenger to every ton of burden, nor unless the vessel has space on a deck or platform under hatches reserved for the accommodation of the passengers in the proportion of six superficial feet for every passenger, with not less than five feet clear between the upper deck and the lower deck or platform; except a vessel proceeding in ballast from any part of the Coast of the Gulf of Manar or Palks' Strait to any port or place in Ceylon, which may be licensed to carry a number of passengers not exceeding the proportion of two and-a-half to every ton of her burden, provided that the whole of the space usually allotted for cargo and not occupied by ballast be kept for the accommodation of the passengers, and for storing the provisions and water for their use, and that the space left clear for the accommodation of the passengers on the deck or decks of the vessel be not less than four superficial feet for each passenger.

And in licensed vessels sailing in ballast from certain parts of the coast of Ceylon.

Penalty on Master of unlicensed vessel.

III. The Master or Tindal of any vessel which shall carry passengers on any such voyage as aforesaid without a licence, in a proportion exceeding that laid down in Section I., shall be liable to a fine not exceeding two hundred rupees.

IV. The Master or Tindal of any licensed vessel which shall

Penalty on Master of licensed vessel.

carry on any such voyage a greater number of passengers than is specified in the license, or in which the accommodation therein required shall not be afforded, shall be liable to a fine not exceeding twenty rupees for each passenger in excess of such number, or for each passenger who is not provided with accommodation agreeably to the license.

Government to appoint ports for shipment of passengers where the number of passengers to be carried is greater than one to every four tons of burden.

V. Passengers in a greater number than one passenger to every four tons of the burden of any vessel shall not be shipped from the territories under the Government of Fort St. George, for Ceylon or the Eastern Coast of the Bay of Bengal, or the Straits of Malacca, except from such ports as shall be from time to time appointed by the Government by an Order in Council, published in the "Fort St. George Gazette"; and the Master or Tindal of any vessel who shall take on board passengers for such voyage from any other port or place in a greater proportion to the burden of the vessel than is above-mentioned shall be liable to a fine not exceeding twenty rupees for each passenger embarked.

Grant of license to vessels.

VI. It shall be at the discretion of the Collectors of Sea Customs for the ports appointed for shipping native passengers, or such other persons as the Government of Fort St. George may from time to time appoint for the purpose, to grant licenses to vessels under this Act. Provided that such licenses shall not be granted, except for vessels within the exception in Section II., till the vessels have been surveyed according to such directions as shall be given from time to time by the Governor in Council. The license shall describe the vessel, her tonnage, and rig; the number of her boats, anchors, and cables; and what instruments for the purpose of navigation she is supplied with; also the name of the owner and of the Master or Tindal, and the number and composition of the crew: and shall specify the number of passengers she may carry, and the space to be assigned for their accommodation.

Certain licensed passenger vessels to carry provision according to appointed scale.

VII. The Master or Tindal of any vessel licensed to carry passengers from any port in the territories under the Government of Fort St. George to any port or place on the Eastern Coast of the Bay of Bengal or the Straits of Malacca,

which shall proceed on such voyage not being furnished with provisions and water according to such scale as shall be laid down from time to time by an order of Government, published in the "Fort St. George Gazette," shall be liable to a fine not exceeding twenty rupees for each passenger in excess of the number fully supplied with provisions and water according to such scale.

Penalty for omitting to supply passengers with prescribed allowance of food and water.

VIII. The Master or Tindal of any vessel licensed to carry passengers as aforesaid, who shall wilfully and without satisfactory excuse omit to supply to every passenger the prescribed allowance of food and water, shall be liable for such omission to a fine which may extend to twenty rupees for every passenger who has suffered privation thereby.

Supply of provisions on board passenger ships plying to and from Ceylon.

IX. The Master or Tindal of any vessel licensed to carry passengers from any port under the Government of Fort St. George to Ceylon, who shall proceed on such voyage without having laid in a supply of water and provisions for the passengers according to a scale to be fixed by the Collector of Sea Customs for such port, or such other person as the Government of Fort St. George may from time to time appoint for the purpose, which shall be hung up at the Custom House of the port, shall be liable to a fine not exceeding one hundred rupees.

List of Passengers to be signed by Master.

X. The Master or Tindal of any vessel licensed to carry passengers as hereinbefore provided shall sign and deliver in duplicate to the principal Officer of Customs at the place of embarkation, or such other person as the Government of Fort St. George may from time to time appoint for the purpose, a list according to the form annexed to this Act, of all passengers to be conveyed in such vessel; and such officer after satisfying himself of the correctness of the same, and that the number of passengers authorized is not exceeded, shall countersign and return one such list to the Master or Tindal, to be produced to the proper officer at the port to which the vessel is bound; and should any additional passengers engage to proceed by such vessel after such list has been so countersigned, the Master or Tindal may insert their names in the original list, obtaining the signature of the controlling officer as

Additional passengers.

before. The officer in charge of the Customs may withhold the port clearance till this rule is complied with.

Penalty for bringing native passengers into any port in the Madras Presidency in excess of authorized proportion.

XI. If any vessel, bringing native passengers into any port or place whatsoever within the said Territories from any port or place on the Eastern Coast of the Bay of Bengal, or in the Straits of Malacca, or in Ceylon, shall have on board a greater number of passengers than in the proportion prescribed in this Act for vessels licensed to carry passengers from the said Territories, the Master or Tindal of such vessel shall be liable to a penalty of twenty Rupees for each passenger in excess of such proportion.

Penalty for impeding entry or inspection.

XII. The principal officer in charge of the Customs at the place of embarkation or of importation, or any person authorized by him, shall be at liberty at all times to enter and inspect any passenger vessel, and the fittings, provisions, and stores therein; and whoever impedes such entry or inspection, or refuses to allow of the same, shall be liable to a fine not exceeding fifty Rupees.

Levy of fines.

XIII. The fines authorized by this Act may be imposed by any Magistrate, Joint Magistrate, or other person lawfully exercising the powers of a Magistrate, or by any Justice of the Peace having jurisdiction at any place in possession and under the Government of the East India Company.

Duration of Act.

XIV. This Act shall continue in force for three years.

SCHEDULE.

FORM.

1	2	3	4	5	6	7
Name of Vessel.	Name of Master.	Tons per Register.	Port of Embarkation.	Number and names of Passengers.	Port at which Passengers have contracted to be landed.	Date of Departure.

(Signed) ————, *Master.*

(Countersigned) ————, *Principal Officer of Customs.*

NOTE.—In the case of vessels carrying passengers to Ceylon, it will be sufficient to insert the number, and not the names, of passengers in Column 5.

THE CALCUTTA UNIVERSITY.

ACT NO. II. OF 1857.

[*Received the assent of the G. G. on the 24th Jan.*, 1857.

Recites expediency of establishing and incorporating an University at Calcutta for the purpose of encouraging all classes in pursuit of a regular education, and of ascertaining those who have acquired proficiency, and of marking such proficiency by Academical Degrees and other proportionate marks of honor.

1. Appoints the first Chancellor, Vice-Chancellor, and Fellows; and constitutes and declares them a Body Politic, with perpetual succession and a common seal, by the name of the University of Calcutta, by which name they are required to sue and be sued.

2. Grants power to the University to hold and dispose of property.

3. Regulates the constitution of the University and of its Senate and provides that any member leaving India permanently shall vacate his office.

4. The Chancellor to be the Governor General of India for the time being.

5. The office of Vice-Chancellor to be held only for two years and vacancies in it to be filled up by the Governor General from among the Fellows—with power to re-appoint the previous holder of the office.

6. The *ex-officio* Fellows to be the Lieutenant-Governors of Bengal and the North-Western Provinces, the Chief Justice of the Supreme Court, the Bishop of Calcutta and the Members of the Supreme Council, for the time being. The whole number of Fellows to be never less than thirty, exclusive of the Chancellor and Vice-Chancellor, and to be kept up to that number by nominations on vacancies by the Governor General, who may also nominate more than 30 persons.

7. The Governor General of India in Council may cancel the appointment of a Fellow by notification in the "Gazette."

8. The Chancellor, Vice-Chancellor, and Fellows to have the entire management of the affairs and property of the University, with full power to make and alter bye-laws, on all matters whatever regarding the University, such bye-laws, however, not to be binding till approved by the Governor General in Council, reduced into writing, and sealed with the common seal.

9. At meetings of the Senate, six Fellows to be a quorum; the majority of votes to decide; the Chairman to be the Chancellor or Vice-Chancellor or chosen by the majority of Fellows present, and to have a vote and a casting vote.

10. Chancellor, Vice-Chancellor, and Fellows may appoint and remove all Examiners, Officers and servants.

11. Regulates the conferring of degrees after examination and of marks of honor, in accordance with the bye-laws laid down from time to time.

12. Candidates for degrees not to be admitted without a certificate from an authorised Institution of having completed the course of instruction prescribed in the bye-laws.

13. Examinations for degrees to be held at least once a year; and examiners and subjects of examination to be appointed by the University for every such occasion.

14. Regulates the grant of Degrees.

15. The University, subject to the approbation of the Governor General in Council, may charge fees for degrees and for admission into and continuance in the University, such fees to be carried to a General Fee Fund, and to be annually accounted for.

An Act to establish and incorporate an University at Calcutta.

Preamble.

Whereas, for the better encouragement of Her Majesty's subjects of all classes and denominations within the Presidency of Fort William in Bengal and other parts of India in the pursuit of a regular and liberal course of education, it has been determined to establish an University at Calcutta for the purpose of ascertaining, by means of examination, the persons who have acquired proficiency in different branches of Literature, Science, and Art, and of rewarding them by Academical Degrees as evidence of their respective attainments, and marks of honor proportioned thereunto; and whereas, for effectuating the purposes aforesaid it is expedient that such University should be incorporated, it is enacted as follows (that is to say):—

Incorporation.

I. The following persons, namely,

The Right Honorable CHARLES JOHN VISCOUNT CANNING, Governor General of India.

The Honorable JOHN RUSSELL COLVIN, Lieutenant-Governor of the North-Western Provinces.

The Honorable FREDERICK JAMES HALLIDAY, Lieutenant-Governor of Bengal.

The Honorable Sir JAMES WILLIAM COLVILE, Knight, Chief Justice of the Supreme Court of Judicature in Bengal.

The Right Reverend DANIEL WILSON, Doctor of Divinity, Bishop of Calcutta.

The Honorable GEORGE ANSON, General, Commander-in-Chief of the Forces in India.

The Honorable JOSEPH ALEXANDER DORIN, Member of the Supreme Council of India.

The Honorable JOHN LOW, Major-General,
Companion of the Most Honorable Order of the Bath,
Member of the Supreme Council of India.

The Honorable JOHN PETER GRANT,
Member of the Supreme Council of India.

The Honorable BARNES PEACOCK,
Member of the Supreme Council of India.

CHARLES ALLEN, Esquire,
Member of the Legislative Council of India.

HENRY RICKETTS, Esquire,
Provisional Member of the Supreme Court of India.

CHARLES BINNY TREVOR, Esquire,
Judge of the Sudder Court in Bengal.

Prince GHOLAM MUHAMMUD.

WILLIAM RITCHIE, Esquire,
Advocate General in Bengal.

CECIL BEADON, Esquire,
Secretary to the Government of India.

Colonel HENRY GOODWYN, of the Bengal Engineers,
Chief Engineer in Bengal.

WILLIAM GORDON YOUNG, Esquire,
Director of Public Instruction in Bengal.

Lieutenant-Colonel WILLIAM ERSKINE BAKER,
Of the Bengal Engineers, Secretary to the Government of India.

Lieutenant-Colonel ANDREW SCOTT WAUGH,
Of the Bengal Engineers, Surveyor General of India.

KENNETH MACKINNON, Esquire,
Doctor in Medicine.

HODGSON PRATT, Esquire,
Inspector of Schools in Bengal.

HENRY WALKER, Esquire,
Professor of Anatomy and Physiology in the
Medical College of Bengal.

THOMAS THOMSON, Esquire.
Doctor in Medicine, Superintendent of the
Botanical Garden at Calcutta.

FREDERICK JOHN MOUAT, Esquire,
Doctor in Medicine, and Fellow of the
Royal College of Surgeons.

Lieutenant WILLIAM NASSAU LEES,
of the Bengal Infantry.

The Reverend WILLIAM KAY,
Doctor of Divinity,
Principal of Bishop's College.

The Reverend ALEXANDER DUFF,
Doctor of Divinity.

THOMAS OLDHAM, Esquire,
Superintendent of the Geological Survey of India.

HENRY WOODROW, Esquire,
Inspector of Schools in Bengal.

LEONIDAS CLINT, Esquire,
Principal of the Presidency College.

PROSONNO COOMAR TAGORE,
Clerk Assistant of the Legislative Council of India.

RAMAPERSHAD ROY,
Government Pleader in the Sudder Court of Bengal.

The Reverend JAMES OGILVIE,
Master of Arts.

The Reverend JOSEPH MULLENS,
Bachelor of Arts.

Moulavy MUHAMMUD WUJEEH,
Principal of the Calcutta Mudrasah.

ISHWAR CHUNDRA BIDYA SAGUR,
Principal of the Sanskrit College of Calcutta.

RAMGOPAUL GHOSE,
Formerly Member of the Council of Education.

ALEXANDER GRANT, Esquire,
Apothecary to the East India Company.

HENRY STEWART REID, Esquire,
Director of Public Instruction in the North-Western
Provinces.

being the First Chancellor, Vice-Chancellor, and Fellows of the said University, and all the persons who may hereafter become or be appointed to be Chancellor, Vice-Chancellor, or Fellows as hereinafter mentioned, as long as they shall continue to be such Chancellor, Vice-Chancellor, or Fellows, are hereby constituted and declared to be one Body Politic and Corporate by the name of the University of Calcutta; and such Body Politic shall by such name have perpetual succession, and shall have a common seal, and by such name shall sue and be sued, implead and be impleaded, and answer and be answered unto, in every Court of Justice within the territories in the possession and under the Government of the East India Company.

Power to hold and dispose of property.

II. The said Body Corporate shall be able and capable in law to take, purchase, and hold any property, moveable or immoveable, which may become vested in it for the purposes of the said University by virtue of any purchase, grant, testamentary disposition, or otherwise; and shall be able and capable in law to grant, demise, alien, or otherwise dispose of, all or any of the property, moveable or immoveable, belonging to the said University; and also to do all other matters incidental or appertaining to a Body Corporate.

Constitution of Body Corporate.

III. The said Body Corporate shall consist of one Chancellor, one Vice-Chancellor, and such number of *ex-officio* and other Fellows as the Governor General of India in Council hath already appointed, or shall from time to time, by any order published in the "Calcutta Gazette," hereafter appoint; and the Chancellor, Vice-Chancellor, and Fellows for the time being shall constitute the Senate of the said University.

Senate.

Provided that, if any person being Chancellor, Vice-Chancellor, or Fellow of the said University, shall leave India without the intention of returning thereto, his office shall thereupon become vacant.

Chancellor.

IV. The Governor General of India for the time being shall be the Chancellor of the said University, and the first Chancellor shall be the Right Honorable Charles John Viscount Canning.

Vice-Chancellor.

V. The first Vice-Chancellor of the said University shall be Sir James William Colvile, Knight. The office of Vice-Chancellor shall be held for two

years only: and the Vice-Chancellor hereinbefore nominated shall go out of office on the First day of January, 1859. Whenever a vacancy shall occur in the office of Vice-Chanceller of the said University by death, resignation, departure from India, effluxion of time, or otherwise, the Governor General of India in Council shall by notification in the "Calcutta Gazette," nominate a fit and proper person, being one of the Fellows of the said University, to be Vice-Chancellor in the room of the person occasioning such vacancy. Provided that on any vacancy in the said office which shall occur by effluxion of time, the Governor General of India in Council shall have power to re-appoint the Vice-Chancellor hereinbefore nominated or any future Vice-Chancellor to such office.

Fellows.

VI. The Lieutenant-Governors of Bengal and the North-Western Provinces, the Chief Justice of the Supreme Court of Judicature at Fort William in Bengal or of any Court of Judicature hereafter to be constituted to or in which the powers of the said Supreme Court may be tranferred or vested, the Bishop of Calcutta, and the Members of the Supreme Council of India, all for the time being, shall be *ex-officio* Fellows of the said University. The whole number of the Fellows of the said University, exclusive of the Chancellor and Vice-Chancellor for the time being, shall never be less than thirty: and whenever the number of the said Fellows, exclusive as aforesaid, shall by death, resignation, departure from India, or otherwise, be reduced below thirty, the Governor General of India in Council shall forthwith, by notification in the "Calcutta Gazette," nominate so many fit and proper persons to be Fellows of the said University as, with the then Fellows of the said University, shall make the number of such Fellows, exclusive as aforesaid, thirty, But nothing herein contained shall prevent the Governor General of India in Council from nominating more than thirty persons to be Fellows of the said University, if he shall see fit.

The appointment of a Fellow may be cancelled.

VII. The Governor General of India in Council may cancel the appointment of any person already appointed, or hereafter to be appointed a Fellow of the University, and as soon as such order is notified in the Gazette, the person so appointed shall cease to be a Fellow.

VIII. The Chancellor, Vice-Chancellor, and Fellows for the time being shall have the entire management of and superintendence over the affairs, concerns, and property of the said University; and in all cases unprovided for by this Act, it shall be lawful for the Chancellor, Vice-Chancellor, and Fellows to act in such manner as shall appear to them best calculated to promote the purposes intended by the said University. The said Chancellor, Vice-Chancellor, and Fellows shall have full power from time to time to make and alter any bye-laws and regulations (so as the same be not repugnant to law, or to the general objects and provisions of this Act) touching the examination for degrees and the granting of the same; and touching the examination for honours and the granting of marks of honour for a higher proficiency in the different branches of Literature, Science, and Art; and touching the qualifications of the candidates for degrees and the previous course of instruction to be followed by them, and the preliminary examinations to be submitted to by them; and touching the mode and time of convening the meetings of the Chancellor, Vice-Chancellor, and Fellows; and, in general, touching all other matters whatever regarding the said University. And all such bye-laws and regulations, when reduced into writing, and after the common seal of the said University shall have been affixed thereto, shall be binding upon all persons, members of the said University, and all candidates for degrees to be conferred by the same, provided such bye-laws and regulations shall have been first submitted to and shall have received the approval of the Governor General of India in Council.

Chancellor, Vice-Chancellor, and Fellows to superintend the affairs of the University.

Bye-Laws.

IX. All questions which shall come before the Chancellor, Vice-Chancellor, and Fellows, shall be decided at a Meeting of the Senate by the majority of the members present; and the Chairman at any such meeting shall have a vote, and, in case of an equality of votes, a second or casting vote. No question shall be decided at any meeting unless the Chancellor, or Vice-Chancellor, and five Fellows, or, in the absence of the Chancellor and Vice-Chancellor, unless six Fellows at the least, shall be present at the time of the decision. At every meeting of the Senate, the Chancellor, or, in his absence, the

Meetings of the Senate.

Vice-Chancellor, shall preside as Chairman; and, in the absence of both, a Chairman shall be chosen by the Fellows present, or the major part of them.

Appointment and removal of Examiners and Officers.

X. The said Chancellor, Vice-Chancellor, and Fellows for the time being, shall have full power from time to time to appoint, and, as they shall see occasion, to remove all Examiners, Officers, and Servants of the said University.

Power to confer degrees.

XI. The said Chancellor, Vice-Chancellor, and Fellows, shall have power, after examination, to confer the several degrees of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, and Master of Civil Engineering; they shall also have power, after examination, to confer upon the candidates for the said several degrees marks of honour for a high degree of proficiency in the different branches of Literature, Science, and Art, according to rules to be determined by the bye-laws to be from time to time made by them under the power in that behalf given to them by this Act.

Qualification for admission of Candidates for degrees.

XII. Except by Special order of the Senate, no person shall be admitted as a candidate for the degree of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, or Master of Civil Engineering, unless he shall present to the said Chancellor, Vice-Chancellor, and Fellows, a certificate from one of the Institutions authorised in that behalf by the Governor General of India in Council, to the effect that he has completed the course of instruction prescribed by the Chancellor, Vice-Chancellor, and Fellows of the said University, in the bye-laws to be made by them under the power in that behalf given by this Act.

Examination for degrees.

XIII. The said Chancellor, Vice-Chancellor, and Fellows, shall cause an examination for degrees to be held at least once in every year; on every such examination, the candidates shall be examined either by Examiners appointed for the purpose from among the Fellows by the said Chancellor, Vice-Chancellor, and Fellows, or by other Examiners so to be appointed; and on every such examination, the candidates, whether candidates for an ordinary degree

or for a degree with honors, shall be examined on as many subjects and in such manner as the said Chancellor, Vice-Chancellor, and Fellows shall appoint.

Grant of degrees.

XIV. At the conclusion of every examination of the candidates, the Examiners shall declare the name of every candidate whom they shall have deemed entitled to any of the said degrees, and his proficiency in relation to other candidates; and also the honors which he may have gained in respect of his proficiency in that department of knowledge in which he is about to graduate; and he shall receive from the said Chancellor, a certificate, under the Seal of the said University of Calcutta, and signed by the said Chancellor, or Vice-Chancellor, in which the particulars so stated shall be declared.

Fees

XV. The said Chancellor, Vice-Chancellor, and Fellows, shall have power to charge such reasonable fees for the degrees to be conferred by them, and upon admission into the said University, and for continuance therein, as they, with the approbation of the Governor General of India in Council, shall from time to time see fit to impose. Such fees shall be carried to one General Fee Fund for the payment of expenses of the said University, under the directions and regulations of the Governor General of India in Council, to whom the accounts of income and expenditure of the said University, shall once in every year be submitted for such examination and audit as the said Governor General of India in Council may direct.

Annual accounts.

CATTLE TRESPASS.

ACT No. III. OF 1857.

[*Received the assent of the G. G. on the* 31*st Jan.*, 1857.

Recites damage done to crops and to the sides and slopes of public roads by cattle trespassing thereon; and expediency of regulating the seizure, detention, and disposal of such cattle.

Amended by Act V., 1860.

1. Laws repealed.
2. Cultivator or occupier of land may cause to be seized and conveyed.

to the established pound, cattle found trespassing and doing damage, and may call upon the Police to aid in such seizure.

3. Directs that Magistrate shall establish pounds at the Thannahs and other places and shall notify by what villages each pound is to be used.

4. Regulates the control and management of pounds.

5. Regulates the registry of seizures and the feeding of cattle seized, by the pound-keeper.

6. Regulates the levying of fines upon each head of cattle impounded.

7. Cattle to be delivered to owner on payment of fine and regulated charge for feeding: owner to sign receipt: schedule of fines and charges to be stuck up.

8. After seven days, the pound keeper is to report to the Darogah, who is to stick up a notice in the Police Office and cause proclamation by tomtom in the village. Seven days after notice, the Darogah or his Deputy may sell the cattle by public auction.

9. On refusal by owner to pay fines and expenses, unless there be a complaint against the seizure under Section XIV., the cattle may be sold by the Darogah, and the balance of the cattle and purchase money is to be delivered to the owner together with an account, and the owner is to give a receipt.

10. Prohibits Police Officers and pound-keepers from purchasing cattle sold under this Act.

11. Regulates the disposal of the proceeds of sale and of the fines and charges for feeding.

12. Directs that the fines and unclaimed proceeds of sales shall form a fund for payment of pound-keepers and construction and maintenance of pounds.

13. Imposes fine or imprisonment or both for forcible opposition to the seizure of cattle, or for rescuing cattle already seized.

14. A complaint of illegal seizure may be preferred within ten days to any criminal officer having original jurisdiction, or to any such civil officer specially authorised by the Local Government. Such officer, how to proceed.

15. Regulates impounding of cattle doing damage to public roads, embankments, &c.

16. Police Officers are to impound cattle straying in any public place, the owners of which are unknown.

17. Directs on whose complaint the penalty for damage committed by causing cattle to trespass may be adjudged: and how it is to be recovered.

18. Imposes fine for damage done to land or crops by pigs, and permits the application of such fine to the compensation of the complainant.

19. This Act not to prevent the institution of a civil suit for damage done by trespass of cattle, but any compensation granted by the Magistrate is to be set off against the damages awarded in the suit.

20. The Local Government may exempt any district from the operation of this Act.

21. Interpretation clause.

22. Act to take effect from 1st May, 1857.

An Act relating to Trespasses by Cattle.

Preamble.

Whereas loss and injury are suffered by cultivators and occupiers of land from damage done to crops and other produce of land by the trespass of cattle, and whereas damage is done to the sides and slopes of Public roads and embankments by cattle trespassing thereon; and whereas it is expedient to authorise the seizure and detention of cattle doing damage as aforesaid, and also to make provision for the disposal of cattle found straying in any public place, it is enacted as follows:

Laws repealed.

I. Section IV., Regulation V., 1830, of the Bengal Code, Sections XII. and LII., Regulation XI., 1816, of the Madras Code, and such parts of Sections XIX., XLV., and LIII., Regulation XII., 1827, of the Bombay Code, as authorise the Magistrates or Police Officers to take charge and dispose of any cattle, are hereby repealed.

Cattle doing damage to land may be seized and impounded.

II. It shall be lawful for the cultivator or occupier of any land to seize or cause to be seized any cattle trespassing on such land, and doing damage to such land or any crop or produce thereon, and to convey them without unnecessary delay to the pound established for the village or township in which the land is situate. Village and other Police officer, when called upon, shall give their aid to cultivators and occupiers making such seizures. [Supplemented by Act XXII., 1861, s. VI.]

Where pounds shall be established.

III. Pounds shall be established at the Thaunahs or district Police Stations, and at such other places as the Magistrate, under the orders of the Local Government, may determine. The village or villages by which every pound is to be used shall be determined and notified by the Magistrate.

Control and management of pounds.

IV. The pounds shall be under the control of the Magistrate of the district, and for each pound a pound-keeper shall be appointed, who shall keep such registers and furnish such returns as the Local Government shall direct. Provided that, in the Presidencies of Fort St. George and Bombay, the heads of villages and Police pateils shall be *ex-officio* the keepers of village pounds.

Seizures to be registered.

V. When cattle are brought to a pound, the pound-keeper shall enter in his register the number and description of the animals, the name and residence of the seizer, and the name and residence of the owner, if known, and shall give a copy of the entry to the seizer. The pound-keeper shall take charge of and feed the cattle until disposed of as hereinafter directed.

Pound-keeper to take charge of and feed cattle.

Fines.

VI. For every head of cattle impounded as aforesaid, a fine shall be levied according to the following scale:

	Annas.
Camel or Buffalo	8
Horse or Tattoo, Bull, Bullock, or Cow ...	4
Calf or Ass	2
Sheep or Goat	1

and no cattle shall be released by a pound-keeper without the payment of such fine, unless the release be ordered by competent authority.

Procedure if owner appear and claim the cattle.

VII. If the owner appear and claim the cattle, they shall be delivered to him on payment of the prescribed fine, together with the expense of feeding the cattle at such rates as may from time to time be fixed by the Magistrate; and the owner, on taking back his cattle, shall sign a receipt for them in the register kept by the pound-keeper. A schedule of the fines and of the rates of charge for feeding cattle shall be stuck up in a conspicuous place on or near to every pound.

Procedure if cattle be not claimed within a specified time.

VIII. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall make his report to the Darogah or district Police Officer, who shall stick up in a conspicuous part of the Police Office a notice containing a statement of the number and description of the cattle, the place where they were seized, and the place where they are impounded, and shall cause proclamation of the same to be made by beat of drum in the village, and at the market place, nearest to the place of seizure. If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the Darogah or district Police Officer or an officer of his establishment deputed for the purpose.

IX. If the owner appear, and refuse or omit to pay the fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction for the recovery of such fines and expenses by the Darogah or other officer as aforesaid; and the remaining cattle, and the balance of the purchase money, if any, shall be delivered to the owner, together with an account shewing the number of cattle seized, the time during which they have been impounded, the charge for fines and expenses, the number of cattle sold, the proceeds of sale, and the manner in which those proceeds have been disposed of; and the owner shall grant a receipt for the cattle delivered to him and for the balance of the purchase money paid to him (if any) according to such account. Provided always that, if a complaint against the seizure shall have been preferred under the provisions of Section XIV. of this Act, no sale shall be made until the case shall have been decided, nor otherwise than according to the order which may be passed in such case.

Procedure if owner appear and refuse or omit to pay the fines and expenses.

Proviso.

X. Police Officers and pound-keepers are prohibited from becoming, directly or indirectly purchasers of any cattle at a sale under this Act.

Police Officers and pound-keepers not to purchase cattle at a sale under this Act.

XI. When cattle are sold under the provisions of this Act, the fines leviable and the expenses of feeding, together with the expenses of sale, if any, shall be deducted from the sale-proceeds. The fines so recovered, as well as all fines received by the pound-keepers under section VII., shall be transmitted to the Magistrate by the Darogah, or district Police Officer. The expenses of feeding realized by sale shall be paid over to the pound-keepers, who shall also retain and appropriate all sums received by them on account of such expenses under Section VII. The surplus proceeds of the sale of unclaimed cattle shall be transmitted to the Magistrate, who shall hold them in deposit for three months, and, if no claim to them be preferred and established within that period, shall, at its expiry, dispose of them as hereinafter provided.

Disposal of sale-proceeds, fines, and expenses.

XII. The sum received on account of fines and the unclaimed

Fines and unclaimed proceeds of sales to form a fund for the payment of pound-keepers, &c.

proceeds of the sale of unclaimed cattle shall form a fund which shall be available for the payment of any salaries which may be allowed to pound-keepers under the orders of the Local Government or of expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act.

Penalty for forcibly opposing the seizure of cattle or rescuing the same.

XIII. Every person who shall forcibly oppose the seizure of cattle doing damage to land or to crops or other produce of land, or shall forcibly rescue the same after seizure either from a pound or from the seizer when conveying or about to convey them to a pound, shall be liable for such offence to imprisonment, with or without labour, for a period not exceeding six months, or to a fine not exceeding five hundred Rupees, or to both. Offences under this Section shall be dealt with by the Police Officers according to the provisions of Section XXV., Regulation XX., 1817, of the Bengal Code, Section XXVII., Regulation XI., 1816, of the Madras Code, and Section XLIII., Regulation XII., 1827, of the Bombay Code. [Partially repealed by Act XVII., 1862.]

Owner may prefer complaint to Magistrate within 10 days from date of seizure of his cattle.

XIV. Any person whose cattle shall have been seized and detained as doing damage to land or any crop or produce thereon may prefer a complaint against the seizure, at any time within ten days from the date thereof, to the Magistrate, or to any Joint, Deputy, or Assistant Magistrate, or other officer having criminal Jurisdiction, authorised to receive and try charges without reference by the Magistrate. The complaint may be either verbal, in which case the substance of it shall be taken down in writing by the Magistrate or other officer as aforesaid, or written upon plain paper, and shall be preferred by the complainant in person, or by an agent personally acquainted with the circumstances. The Magistrate or other officer as aforesaid if, on examination of the complainant or his agent, he shall see reason to believe the complaint to be well founded, shall summon the party complained against, and shall proceed to make a summary enquiry into the case. If the seizure be adjudged illegal, the Magistrate or other officer aforesaid,

Procedure.

Damages for illegal seizure.

shall award to the complainant such damages, not exceeding in any case the sum of rupees one hundred, as he may deem to be a reasonable compensation for any loss or injury sustained from the unlawful seizure and detention, together with all expenses incurred by the complainant in procuring the release of the cattle; or if the cattle have not been released, the Magistrate or other officer as aforesaid, in addition to the award of damages, shall make an order for their release and shall direct that the fines and expenses leviable under this Act shall be paid by the party who made the seizure. Moonsiffs and other judicial officers having original jurisdiction, and not invested with criminal powers, may be specially invested by the local Government with the power of receiving and trying complaints under this section, and in the exercise of such powers shall be subject to the same rules as Assistants and other officers subordinate to the Magistrate.

Moonsiffs and others may be invested with power to adjudicate under this section.

XV. Persons in charge of public roads, canals, embankments, and the like, may seize, or cause to be seized, any cattle doing damage to the sides or slopes of such roads, canals, embankments and the like; and all the foregoing provisions of this Act shall be applicable to such seizures.

Impounding of cattle doing damage to roads, embankments, &c.

XVI. Village and other Police Officers shall convey to the pounds established under Section III. of this Act all cattle, the owners of which are unknown, found straying in any public road or place; and the provisions of this Act relative to the detention, release, and sale of cattle seized as trespassing and doing damage, shall be applicable to all cattle impounded as aforesaid.

Impounding of stray cattle, the owners of which are unknown.

XVII. When any person commits mischief by causing cattle to trespass on any land, the penalty provided for such offence may be adjudged on the complaint of any person authorised to seize cattle under Section II. of this Act, or of any person who may have made advances for the cultivation of the land and delivery of the produce; and any fine which shall be so adjudged may be recovered by sale of the cattle by which the trespass was committed, or any portion of them, whether the cattle were

Recovery of penalty for mischief committed by causing cattle to trespass.

seized in the act of trespassing or not, and whether such cattle are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

Penalty for damage caused to land or crops by pigs.

XVIII. Any person, being an owner or keeper of pigs, who, through neglect or otherwise, shall damage or cause or permit to be damaged, any land or any crop or produce of land by allowing pigs to trespass thereon, shall be liable for such offence to a fine not exceeding ten rupees. All sums recovered under this and the last preceding section may be appropriated in whole or in part to compensate the complainant far damage proved to the satisfaction of the Magistrate.

Application of fines.

Saving of right of parties to institute a suit for the recovery of damages in any competent Court.

XIX. Nothing contained in this Act shall be held to prohibit any person, whose crops or other produce of land shall have been damaged by trespass of cattle, from instituting a suit for the recovery of damages in any competent Court. Provided that any compensation which may have been paid to any such person by order of the Magistrate, shall be set off and deducted from any sum claimed by or awarded to him as damages in such suit.

Proviso.

Local Government, with the sanction of the Governor General in Council, may exclude any district, &c., from the operation of this Act.

XX. The Local Government, with the sanction of the Governor General in Council, may exclude from the operation of this Act any district or tract of country to which its provisions may be judged unsuitable.

Interpretation.

XXI. In the construction of this Act, words importing the singular number shall include the plural, and words importing the plural number shall include the singular; words importing the masculine gender shall include females; the word "Magistrate" shall include a Joint Magistrate, or other officer lawfully exercising the powers of a Magistrate; the expression "Darogah or District Police Officer" shall, in the North-Western Provinces of the Presidency of Fort William, include a Tahseeldar or Naib Tahseeldar entrusted with Police powers.

Commencement of Act.

XXII. This Act shall commence and take effect from and after the First day of May, 1857.

Amended by Act V., 1860.

BOMBAY.—TOBACCO.

ACT No. IV. OF 1857.

[*Received the assent of the G. G. on the 9th Feb.*, 1857.

Recites expediency of amending the law.

1. Laws repealed.

2. Tobacco imported into the Town of Bombay for consumption to be liable, in addition to Customs Duty, to a Municipal Duty of seven rupees and eight annas per maund.

3. Municipal Duty may be paid either at the importation or after the warehousing of the Tobacco.

4. If the Municipal Duty is not paid on importation, the Tobacco must be warehoused in a licensed warehouse, and the Duty paid on removal thereof. The duty is to be remitted on re-exportation of the Tobacco.

5. The port of Bombay to be held a warehousing port under Act XXV., 1856; and the Import Duty is to be held to include the Municipal Duty.

6. Extends the powers of the Commissioner and Officers of Customs for enforcing payment of the Municipal Duty.

7. Prescribes that Tobacco shall not, without permission, be imported into Bombay otherwise than by sea, or landed at other than the appointed places.

8. Exempts from duty small quantities (not exceeding four seers) intended or private consumption.

9. Prohibits the removal of Tobacco from one place to another within the Town without a Permit, granted between sunrise and sunset of the day of removal—except so far as may be necessary for lawful importation, or in small quantities.

10. Prohibits the grant of a Permit for removal of less than an entire bale or package—except in the case of refuse or waste, which, if not re-exported within one month, may be destroyed.

11. Prohibits retail sale of Tobacco without license.

12. Defines a retail sale.

13. Prohibits retail sales elsewhere than at the place named in the license, and directs that the name of the dealer be affixed in the front of the shop.

14. Imposes fine on retail dealers for refusing or neglecting to make monthly returns of stock, or making false returns.

15. Imposes fine on retail dealers for refusing or neglecting to make in a book entries of all Tobacco received.

16. Officer of Customs may issue search-warrant.

17. Any Officer of Customs or other public officer authorised by him may arrest and detain persons or packages or vehicles supposed to convey Tobacco.

18. All Tobacco illegally imported, removed, &c., and all vehicles and animals knowingly employed in conveying it, are liable to confiscation. Confiscation may be commuted to fine.

19. All persons illegally importing, &c., Tobacco liable to a fine not exceeding ten times the value—and licensed dealer liable to revocation of license.

20. Regulates the levying of fines and the adjudication and sale of confiscations.
21. Interpretation clause.
Schedule.

An Act to amend the law relating to the duties payable on Tobacco, and the retail sale and warehousing thereof in the Town of Bombay.

Preamble.

Whereas it is expedient to amend the law relating to the duties payable on Tobacco, and the retail sale and warehousing of that article in the Town of Bombay, it is hereby enacted as follows:

Laws repealed

I. Chapters V., VI., VII. and VIII. of Regulation XXI., 1867, of the Bombay Code, and Act XXIV. of 1850, are hereby repealed, but not so as to revive any other Regulation or Act thereby repealed.

Municipal Duty on Tobacco intended for consumption in Bombay

II. All Tobacco (except such small quantities as are hereinafter mentioned) imported from any place into the Town of Bombay and intended for consumption therein, shall be liable to a duty of seven rupees and eight annas per maund of forty seers of eighty tolas to the seer, which duty is hereinafter called the Municipal Duty; and such duty shall be leviable in addition to any Customs Duty prescribed by law.

Municipal Duty, when payable

III. The said Municipal Duty may be paid at the option of the importer either on the importation of the Tobacco, or after it has been warehoused as hereinafter provided.

Duty if not paid on importation, to be paid on removal from warehouse for consumption

IV. If the said Municipal Duty is not paid on importation, the Tobacco shall be warehoused in a public or licensed warehouse within the meaning of Act XXV. of 1836, and the importer shall pay such duty on the said Tobacco on its removal from the warehouse for consumption in the said Town.

Remission of Municipal Duty on re exportation

When Tobacco so warehoused is re-exported to any place beyond the limits of the said Town, the whole of the said Municipal Duty shall be remitted.

Bombay a warehousing port for Tobacco

V. The port of Bombay shall, after the passing of this Act, be held to be a warehousing port within the meaning of Act XXV. of 1836, so far as

regards the warehousing of Tobacco; and the provisions of the said Act, so far as the same are applicable, shall be applied to the warehousing of Tobacco in the said Town. The Import Duty in the said Act mentioned shall, as to Tobacco, include the Municipal Duty leviable under this Act.

Powers for collection and enforcing payment of the Municipal duty.

VI. The Commissioner of Customs, Salt, and Opium, and Officers of Customs, shall have all the same powers and authorities for collecting and enforcing payment of the said Municipal Duty, in addition to the powers and authorities specified in this Act, as they now have or shall have in respect of duties of Customs.

Tobacco not to be imported otherwise than by Sea.

Landing places to be prescribed.

VII. It shall not be lawful, without the permission of the Commissioner of Customs, Salt, and Opium, or other officer empowered by Government to grant such permission, to bring any Tobacco or any preparation thereof into Bombay otherwise than by sea, nor to land the same at any other landing places than such as may from time to time be prescribed by the Government of Bombay.

Exemptions from Duty.

VIII. The foregoing provisions of this Act shall not be applicable to such small quantities of Tobacco, (not exceeding in weight four seers of eighty tolas to the seer) as are intended for the private consumption of the importer.

Permit necessary for removal of Tobacco

IX. It shall not be lawful to remove any Tobacco from one place to another within the said Town, nor to carry or convey the same on any thoroughfare in the said Town, nor to carry the same in any vessel or boat of less than forty candies burthen in any of the creeks or waters adjacent to the said Town, without a Permit from the Commissioner of Customs, Salt, and Opium, which Permit shall be in the form of Schedule A to this Act annexed, or to the like effect; any such Permit shall be in force only between sunrise and sunset of the day for which it is granted. Provided always, that it shall be lawful to convey without a Permit any Tobacco so far as may be necessary for the lawful importation thereof according to the provisions of this Act, and also small quantities of Tobacco, not exceeding in weight four seers of eighty tolas to the seer, for personal or domestic use.

Proviso

No permit for removal of less than a bale from warehouse.

Proviso.

X. No Permit shall be granted for the removal from warehouse of any quantity of Tobacco less than an entire bale or package. Provided that, when Tobacco is to be removed for consumption in the said Town, the Commissioner of Customs, Salt, and Opium, may give permission to open any bale or package previous to removal and to set aside such portion thereof as may be refuse or waste; and the said refuse or waste may be re-exported, under the rules for the re-export of Tobacco, at any time within one month from the date of such permission, or, if it be not so re-exported, may be destroyed by order of the Commissioner.

License for retail sale of Tobacco.

XI. It shall not be lawful for any person to sell or offer for sale by retail any Tobacco in the said Town without a license from the Commissioner of Customs, Salt, and Opium, or other officer duly empowered by Government in that behalf, which license shall be in force for a period of twelve calendar months from the date thereof, unless the person to whom the license is granted shall be deprived thereof under the provisions of this Act. A fee of one rupee shall be paid for every such license.

What to be deemed a retail sale.

XII. Any sale of Tobacco not exceeding in weight fourteen seers of eighty tolas to the seer shall be deemed to be a retail sale within the meaning of this Act.

Retail sale to be only at the place mentioned in the license.

Name of licensed dealer to be affixed to shop.

XIII. It shall not be lawful for any licensed retail dealer in Tobacco to carry on the retail sale of the same, or to keep any store of the same, except at such shop or other premises as may be specified in his license; and the name of every retail dealer in Tobacco together with the number of his license, shall be written or painted in English, Guzerati, and Maharatti, in plain and legible characters of not less than one inch in height, on a board to be affixed in a conspicuous manner in the front of the shop or premises where such retail sale is carried on.

Monthly returns of stock to be made by retail dealers.

XIV. Every retail dealer in Tobacco shall, on or before the 10th day of each month, make to the Commissioner of Customs, Salt, and Opium, or other officer as aforesaid, a separate return, for

each shop or place of sale for which he holds a license, showing the quantity of Tobacco on hand therein at the beginning of the preceding month, the quantity received during such month, and the persons from whom, and the dates on which, he received it, and the stock remaining at the close of such month; and any retail dealer, who refuses or neglects to make such return or makes a false return, shall be liable to be deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred rupees.

Retail dealer to make entry in a book, of weight, &c., of all Tobacco received

XV. Every retail dealer in Tobacco shall, on the same day on which he shall receive any Tobacco into any such shop or place of sale, enter in a book to be kept for that purpose, the weight of such Tobacco, the day on which he receives the same, and the name of the person from whom, and the place from which, he receives it; and such book shall be open to the inspection of the Commissioner of Customs, Salt, and Opium, or other officer as aforesaid, or of any person authorised by the Commissioner or such officer to inspect the same; and the Commissioner or other officer or person as aforesaid inspecting the said book, may make any minute therein, or any extract therefrom, which he shall think fit; and any retail dealer who neglects or refuses to comply with the provisions of this section, shall for every offence be liable to be deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred rupees.

Inspection of book.

Search warrant

XVI. The Commissioner of Customs, Salt, and Opium, or other officer as aforesaid, may issue a warrant under his hand and sels to any public officer commanding him to enter and search between sunrise and sunset any building or place to be specified in the warrant, in which Tobacco may be deposited under the provisions of this Act, or in which the Commissioner or other officer as aforesaid has been credibly informed, which information shall be taken down in writing, that Tobacco is deposited contrary to the provisions of this Act; and to seize and take away from thence any Tobacco or other articles subject to confiscation under this Act,

XVII. The Commissioner of Customs, Salt, and Opium, or

Power to arrest and detain.

other officer as aforesaid, or any public officer authorised by the Commissioner or such officer, may arrest and detain any person carrying or having charge of any Tobacco liable to confiscation under this Act, and may detain and search any vessel or package, and any boat or vehicle, containing or conveying, or supposed to convey or contain, any such Tobacco.

To search vehicles, &c.

XVIII. All Tobacco imported into the said Town or removed from one place to another or kept within the said Town, or found in the possession of any person in the said Town selling or offering any portion thereof for sale, contrary to the provisions of this Act, and every vessel in which such Tobacco is contained; and every vehicle, boat, or animal employed with the consent and knowledge of the owner or his servant in conveying the same—shall be liable to confiscation. Provided always, that it shall be lawful for the adjudicating officer to mitigate the penalty of confiscation herein provided, by commuting the same to the payment of any fine not exceeding the value of the goods liable to confiscation; and every such fine may be enforced, if necessary, by the sale of the goods liable to confiscation.

Confiscation of Tobacco illegally imported, removed, &c.

Mitigation of penalty.

XIX. Any person who shall illegally import, remove, or sell in the said Town, any Tobacco, or who shall knowingly have in his possession any Tobacco subject to confiscation under this Act, shall be liable to a fine not exceeding ten times the value of such Tobacco: and if the offender is a licensed retail dealer, he shall be liable to be deprived of his license by the Commissioner of Customs, Salt, and Opium, or other officer as aforesaid.

Penalty for illegal importation, removal, sale, or possession.

Revocation of license.

XX. All confiscations and fines under this Act may be adjudicated and levied by any Magistrate of Police for the Town of Bombay. Goods adjudged liable to confiscation shall be sold under warrant of the Magistrate.

Levy of fines and adjudication and sale of confiscations.

XXI. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the context repugnant to such construction:—

Interpretation.

The words "Town of Bombay" shall include all places within the Islands of Bombay and Colaba.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

SCHEDULE A.

Form of Permit.

No.

A. B. has been permitted to remove from (*Custom House or licensed warehouse or shop, No.* *situated in Kabbadavie Street, to warehouse or shop, No.* *in Baxar Street*) the under-mentioned quantity of Tobacco between sunrise and sunset on the day of in the year

(Signed)————————

Commissioner of Customs, Salt, and Opium.

CALCUTTA.—ORIENTAL GAS COMPANY.

ACT No. V. OF 1857.

[*Received the assent of the G. G. on the* 13*th Feb.*, 1857.

Recites expediency of giving to the Oriental Gas Company, Limited, power, to carry out their undertaking of lighting the Town of Calcutta with Gas.

1 Oriental Gas Company, under Superintendence, may break up streets, open drains, erect pillars, &c., making compensation, for damage done.

2. The Company not authorized to enter on any land not dedicated to public use, without consent, except to substitute a new pipe for one already existing.

3. Directs the Company to give notice to the Municipal Commissioners three clear days before breaking up any street, drain, &c., except in cases of emergency.

4. Prohibits the breaking up of streets, drains, &c., except under the superintendence, and according to the plan of the persons having control over them—unless in cases of emergency, or when such persons fails to superintend, after due notice

5. Directs the Company to guard and light streets, &c., while broken up, and to restore them afterwards, and to continue to repair them as long as the soil shall continue to subside.

6. Imposes on the Company a fine not exceeding fifty rupees a day for each breach of 4th and 5th sections.

7 In case of the Company delaying to restore streets, &c., the persons having control of them may do so and recover the expenses from the Company.

8. The Company's Officer may at reasonable times enter any place lighted with Gas by the Company in order to inspect the meters, &c, or to ascertain the quantity of gas consumed.

9. Regulates the recovery of rents due for gas.

10. When the supply of gas is discontinued, the Company may at certain hours enter premises to remove pipes.

11. Meters and fittings not liable to distraint for rent, &c., in suit against the persons in possessions of them.

12. Imposes fine for fraudulent use of gas; and allows the Company to treat such use as an annulment of contract.

13. Imposes fine for wilful destruction or damage to the Company's pipes or other works.

14. Persons accidentally damaging pipes, &c., to make satisfaction to the Company within certain limits.

15. Imposes on the Company a fine, to be repeated for every day during the continuance of the offence after notice, for causing water to be corrupted.

16. Imposes a daily fine for escape of gas after notice.

17. Imposes a daily fine on the Company for the benefit of private persons, whose water shall be fouled by their gas, after notice.

18. The person whose water is supposed to be fouled may, after notice, and for the purpose of ascertaining the cause of such fouling, dig up the ground and examine the pipes, &c., of the Company.

19. The expense of such examination to abide its result.

20. How such expense is to be ascertained.

21. The Company are not to be exempted from liability to indictment for nuisance.

22. Copies of the original deed of Association and of all Regulations or Resolutions of a General Meeting of the Company are to be kept in certain places.

23. Regulates the mode in which process may be served.

24. Penalties, damages, &c., may be recovered summarily before a Magistrate.

25. Penalties, damages, &c., may be levied by distress and sale or by suit in any competent Court.

26. Distress not to be vitiated by want of form, &c.

27. Interpretation Clause.

An Act to confer certain powers on the Oriental Gas Company, Limited.

Preamble.

Whereas a Joint Stock Company has been lately formed for the purpose of introducing Gas-works into India, which Company having been completely registered in England under the Act of Parliament of the eighth

year of the reign of her present Majesty, Cap. 110, has since been registered in England under "The Joint Stock Companies' Act, 1856," with limited liability, and has duly obtained a certificate of Incorporation under the name of the Oriental Gas Company, Limited; and whereas the said Company has erected Gas-works on land granted for that purpose by Government in the vicinity of the Town of Calcutta, and is engaged in the preparation of apparatus and materials for the manufacture and supply of Gas for lighting the said Town; and whereas it is expedient that powers and facilities should be given to the said Company to enable them to carry out their undertaking of lighting with Gas the said Town of Calcutta, which powers and facilities may hereafter be extended to the operations of the said Company in other towns and places, it is enacted as follows:

Power to break up streets, &c., under Superintendence, and to open drains.

I. In the Town of Calcutta and its environs, and in any other town or place to which the provisions of this Act may hereafter be extended by a law to be passed for that purpose, the Oriental Gas Company, Limited, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same limits pipes, conduits, service-pipes, and other works, and from time to time repair, alter, or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the making of the Gas; and, for the purposes aforesaid, may remove and use all earth and materials in and under such streets and bridges; and they may in such streets erect any pillars, lamps, and other works, and do all other acts which the said Company, shall from time to time deem necessary for supplying Gas to the inhabitants of the said Town of Calcutta and its environs, or other town or place as aforesaid, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

Not to enter on private land without consent.

II. Provided always, that nothing herein shall authorize or empower the said Company to lay down or place any pipe or other works into, through,

or against any building, or in any land not dedicated to public use, without the consent of the owners and occupiers thereof; except that the said Company may at any time enter upon and lay or place any new pipe in the place of an existing pipe, in any land wherein any pipe hath been already lawfully laid down or placed in pursuance of this Act, and may repair or alter any pipe so laid down.

Notice to be served on persons having control, &c., before breaking up streets or opening drains.

III. Before the said Company proceed to open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the Municipal Commissioners for the Town of Calcutta, or other persons under whose control or management the same may be, or to their Clerk, Surveyor, or other officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work; except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

Streets or drains not to be broken up, except under superintendence of persons having control of the same.

IV. No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up, except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by a Magistrate; and such Magistrate may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the said Company to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain. Provided always that, if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the said Company's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said Com-

If persons having the control, &c., fail to superintend, Company may proceed with the work.

pany may perform the work specified in such notice without the superintendence of such persons or their officer.

Streets broken up to be re-instated without delay.

V. When the said Company open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and re-instate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and maintained against or near such road or pavement where the same shall be open or broken up every night during which the same shall be continued open or broken up; and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Penalty for delay in re-instating streets

VI. If the said Company open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the said Company are hereby authorized to perform such works without any superintendence or notice; or if the said Company make any delay in completing any such work, or in filling in the ground or re-instating and making good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, or in carrying away the rubbish occasioned thereby; or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of three months next after the same shall have been made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such default is made, a sum not exceeding fifty

Rupees for every such offence, and they shall forfeit an additional sum not exceeding fifty Rupees for each day during which any such delay, as aforesaid, shall continue after they shall have received notice thereof.

In case of delay, other parties may re-instate, and recover the expenses.

VII. If any such delay or omission as aforesaid take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such delay or omission shall take place, may cause the work so delayed or omitted to be executed; and the expense of executing the same shall be repaid to such persons by the said Company; and the amount of such expense shall, in case of any dispute about the same, be ascertained and recovered in Calcutta and in any other town or place subject to the jurisdiction of any of Her Majesty's Courts of Judicature, in the manner in which expenses are ascertained and recovered under Act XIV. of 1856, and in any town or place not within the jurisdiction of any of Her Majesty's Courts, in the same manner as damages are recoverable under this Act.

Expense, how to be ascertained and recovered.

Power to enter buildings for ascertaining quantity of gas consumed.

VIII. The Clerk, Engineer, or other officer, duly appointed for the purpose by the said Company, may, at all reasonable times, enter any buildings or place lighted with Gas supplied by the said Company, in order to inspect the meters, fittings, and works for regulating the supply of Gas, and for the purpose of ascertaining the quantity of Gas consumed or supplied; and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time, he shall, for every such offence, forfeit to the said Company a sum not exceeding fifty Rupees.

Recovery of rents due for gas.

IX. If any person supplied with Gas, or any person to whom any meter or fitting shall have been let for hire by the said Company, neglect to pay the rent due for the same to the said Company, the said Company may stop the Gas from entering the premises of such person, by cutting off the service-pipes, or by such means as the said Company shall think fit, and recover the rent due from such person, together with the expenses of cutting off the Gas, by action in any Court of competent jurisdiction.

X. In all cases in which the said Company are authorized to cut off and take away the supply of Gas from any house or building or premises under the provisions of this Act, the said Company, their agents or workmen, after giving twenty-four hours' previous notice to the occupier, may enter into any such house, building or premises, between the hours of nine in the forenoon and four in the afternoon, and remove and carry away any pipe, meter, fittings or other works, the property of the said Company.

Power to take away pipes when supply of gas discontinued

XI. Any meter or fitting let for hire by the said Company shall not be subject to distress for rent or revenue, or any rate due upon the premises where the same may be used, nor be taken in execution under any process of a Court of law or equity, or any proceeding in insolvency against the person in whose possession the same may be.

Meters not liable to distraint for rent, &c.

XII. Every person who shall lay, or cause to be laid, any pipe to communicate with any pipe belonging to the said Company, without their consent, or shall fraudulently injure any such meter as aforesaid, or who, in case the Gas supplied by the said Company is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the said Company, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or shall otherwise improperly use or burn the Gas, or shall supply any other person with any part of the Gas supplied to him by the said Company, shall forfeit to the said Company the sum of fifty Rupees for every such offence, and also the sum of twenty Rupees for every day such pipe shall so remain, or such works or burner shall be so used, or such excess be so committed or continued, or such supply furnished; and the said Company may take off the Gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into.

Penalty for fraudulently using gas.

XIII. Every person who shall wilfully remove, destroy, or damage any pipe, pillar, post, plug, lamp, or other work of the said Company, for supplying Gas, or who shall wilfully extinguish any of the public lamps

Penalty for wilfully damaging pipes

or lights, or waste or improperly use any of the Gas supplied by the said Company, shall, for each such offence, forfeit to the said Company any sum not exceeding fifty rupees, in addition to the amount of the damage done.

Satisfaction for accidentally damaging pipes.

XIV. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the said Company, or under their control, shall pay such sum of money by way of satisfaction to the said Company for the damage done, not exceeding fifty rupees, as any Magistrate shall think reasonable.

Penalty for causing water to be corrupted.

XV. If the said Company shall at any time cause or suffer to be brought, or to flow into any stream, reservoir, aqueduct, pond, or place for water, or into any drain communicating therewith, any washing or other substance produced in making or supplying Gas, or shall wilfully do any act connected with the making or supplying of Gas, whereby the water in any such stream, reservoir, aqueduct, pond, or place for water, shall be fouled, the said Company shall forfeit for every such offence a sum not exceeding one thousand rupees; and they shall forfeit an additional sum not exceeding five hundred rupees for each day during which such washing or other substance shall be brought or shall flow, or the act by which such water shall be fouled shall continue, after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the said Company, by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby; and such penalties shall be paid to such last-mentioned person.

Daily penalty during the continuance of the offence

Daily penalty during escape of Gas after notice.

XVI Whenever any Gas shall escape from any pipe laid down or set up by or belonging to the said Company, they shall, immediately after receiving notice thereof in writing, prevent such Gas from escaping; and in case the said Company shall not within twenty-four hours next after service of such notice, effectually prevent the Gas from escaping, and wholly remove the cause of complaint, they shall for every such offence forfeit the sum of fifty rupees for each day during which the Gas shall

be suffered to escape, after the expiration of twenty-four hours from the service of such notice.

Penalty if water be fouled by Gas.

XVII. Whenever any water shall be fouled by the Gas of the said Company, they shall forfeit to the person whose water shall be so fouled, for every such offence a sum not exceeding two hundred rupees, and a further sum, not exceeding one hundred rupees for each day during which the offence shall continue, after the expiration of twenty-four hours from the service of notice of such offence.

Power to examine Gas-pipes to ascertain cause of water being fouled.

XVIII. For the purpose of ascertaining whether such water be fouled by the Gas of the said Company, the person to whom the water supposed to be fouled shall belong may dig up the ground, and examine the pipes, conduits, and works of the said Company; provided that such person, before proceeding so to dig and examine, shall give twenty-four hours' notice in writing to the said Company of the time at which such digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement, or place where such digging is to take place, and they shall be subject to the like obligation of re-instating the said road and pavement, and the same penalties for delay, or any nonfeasance or misfeasance therein, as are hereinbefore provided with respect to roads and pavements broken up by the said Company, for the purpose of laying their pipes.

Expenses to abide result of examination.

XIX. If upon any such examination, it appear that such water has been fouled by any Gas belonging to the said Company, the expenses of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the said Company; but if upon such examination it appear that the water has not been fouled by the Gas of the said Company, the person causing such examination to be made, shall pay all such expenses, and shall also make good to the said Company any injury which may be occasioned to their works by such examination.

How expenses to be ascertained

XX. The amount of the expenses of every such examination and repair, and of any injury done to the said Company, shall, in case of any dispute about the same, together with the costs of ascertaining and recovering

the same, be ascertained and recovered in the manner prescribed for the ascertainment and recovery of expenses in Section VII. of this Act.

Liability to indictments for nuisance.

XXI. Nothing in this Act contained shall prevent the said Company from being liable to an indictment for nuisance, or to any other legal proceedings to which they may be liable in consequence of making or supplying Gas.

Copies of the original Deed of Association and of all Rules, &c., to be kept for inspection at the office of the Company in Calcutta and in the office of the Registrar of Joint Stock Companies or the Keeper of the Records of the Supreme Court at Fort William.

XXII. A copy of the original Deed of Association of the said Company, and of every other instrument registered under the said "Joint Stock Companies' Act, 1856, "as constituting the Regulations of the said Company, and a copy of every special resolution of a General Meeting whereby any change shall have been or at any time shall be made in the Regulations of the said Company, shall be kept at the office of the said Company in Calcutta, and shall there be open to the inspection of all persons during the usual hours of business of the said office; and a copy of such original Deed of Association, and of every other such instrument, and of every special resolution as aforesaid, shall also be deposited by the said Company as soon as it can be done after the passing of this Act, or after the making of any such special resolution hereafter to be made, in the office of the Registrar of Joint Stock Companies, or, if there be no such officer, in the office of the Keeper of the Records of the Supreme Court of Judicature at Fort William, and shall there be filed; and an examined copy of any such filed copy as aforesaid, certified by and under the hand of the Registrar of Joint Stock Companies, or of the Keeper of the Records of the said Supreme Court, shall be good and sufficient evidence of each such original Deed, instrument, or special resolution, in all actions, suits, and proceedings whatsoever, whether civil or criminal, to be had in any Court of Justice or before any Magistrate, or Revenue or other officer, and whether acting judicially or in any proceeding preliminary to a judicial inquiry throughout the territories of the East India Company.

Service of process.

XXIII. All services of mesne or other process, and all notices whatsoever, which, by law or by the practice of any Court wherein the said Com-

pany shall sue or be sued, are required to be made, served, or given for any purpose whatsoever to the said Company, shall and may be made, served, and given, in addition to all ways and means by which the same may otherwise be legally made, served and given, by leaving the same addressed to the Managing Agent of the said Company at the office in Calcutta of the said Company.

Recovery of penalties, &c.

XXIV. All penalties and forfeitures imposed by this Act and all damages and expenses the recovery of which is not specially provided for, may be recovered by summary proceeding before a Magistrate.

Levy by distress.

XXV. All penalties, forfeitures, damages, and expenses adjudged due under this Act, if the amount be not otherwise paid, may be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from such goods and chattels, after satisfying such amount and the expenses of the distress and sale, shall be returned on demand to the party whose goods shall have been distrained; or instead of proceeding by distress and sale, or in case of failure to realise by distress the whole or any part of any penalties, forfeitures, damages, or expenses imposed or incurred under the provisions of this Act, the person claiming such penalty, forfeiture, damage, or expenses may sue the person liable to pay the same in any Court of competent jurisdiction.

No distress unlawful for want of form, &c.

XXVI. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall any such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by any irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Interpretation.

XXVII. The following words and expressions used in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say):—

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number.

Words importing the masculine gender shall include females.

The word " person " shall include a corporation whether aggregate or sole.

The word " street " shall include any square, court, or alley, highway, lane, road, thoroughfare, or public passage or place.

The word " Magistrate " shall include any Magistrate of Police and any joint Magistrate or other person lawfully exercising the powers of Magistrate, acting at or for the place or district where the matter requiring the cognizance of any such Magistrate arises.

See Act XI., 1867. An Act to empower the Oriental Gas Company to extend its operations to certain places in British India.

LAND FOR PUBLIC PURPOSES.

Act No. VI. of 1857.

[*Received the assent of the G. G. on the 1st May*, 1857.

Recites expediency of making better provision for the acquisition of land for public purposes.

1. Repeals Beng. R. 1, 1824, ss. 1 to 7; Acts 28, 1839; 1, 1850; 17, 1850; 42, 1850; 20, 1852; 1, 1854.

2. The Government may take any land on a simple declaration under the signature of a Secretary that it is required for public purposes.

3. After such declaration the Government shall direct the Collector to take order for the acquisition of the land.

4. The Collector shall then have the land marked out, measured and planned; and shall give three several notices—to the public—to the occupier—and to all such persons interested in it as shall reside in the Collectorate.

5. On the day fixed, the Collector shall enquire summarily into the value of the land and the compensation to be awarded, and, if all the persons interested who are in attendance agree with him, shall make an award which shall be conclusive. But the Collector may postpone the enquiry.

6. If no claimant attend, or if the Collector cannot agree with the persons terested who do attend, arbitrators shall be appointed.

7. The person deemed by the Collector to be in possession as owner, or in receipt of the rents as entitled thereto, shall be held to be the person interested in the land.

8. After award or reference to arbitration, the Collector may take immediate possession and the land shall thenceforth vest absolutely in Government.

9. In case of opposition the Magistrate is to enforce surrender.

10, 11, 12, 13. Regulate the appointment of arbitrators.

14. With the written consent of all interested, the Collector may require, the arbitrators to determine the proportion of compensation due to each.

15. Regulates the appointment of arbitrators to apportion compensations when the amount of compensation has been settled.

16. The Collector may exercise similar powers towards arbitrators as towards witnesses.

17. In default of award within a specified period, other arbitrators may be chosen.

18. The Collector shall assist and support the arbitrators.

19. Every witness before the arbitrators shall be examined solemnly.

20. The award shall specify the amount, particulars and proportions of compensation and the persons entitled.

21. The remuneration of the arbitrators shall be fixed by the Collector, subject to superior authority.

22. Regulates costs.

23. The proceedings of the arbitration to be deposited in the Collector's office.

24, 25. Compensation awarded shall include damage done to adjoining land, but value and damage shall be specified separately.

26. Course of proceeding where land paying revenue to Government is taken.

27, 28. The amount of compensation is to be paid by the Collector either at the time of taking possession, or with interest at 6 per cent. from that time, to the persons named in the award.

29, 30. The Collector, if he think proper, may hold the amount in deposit pending an order of Court.

31. An order shall only be reversed by an order of a Civil Court and on the ground of corruption or misconduct.

32. A part of a building shall not be taken without the rest.

33. In the case of roads, canals, &c., the Secretary's declaration needs only declare the general direction of the line.

34. After declaration, persons authorised by the Collector may enter upon the land, survey it, clear it, if necessary, and mark out the line of road, but must not enter upon any building or enclosed garden without 24 hours' previous notice.

35. In such cases the collector shall take account of damage necessarily done and offer immediate compensation.

36. Imposes fine on persons obstructing the setting out of lines of roads, canals, &c.

37. Adjacent land may also be occupied temporarily, subject to compensation.

38. Trustees, married women, guardians of minors and committees of lunatics and idiots shall have full powers to act.

39. Interpretation Clause.

An Act for the acquisition of land for public purposes.

Preamble.

Whereas it is expedient to make better provision for the acquisition of land needed for public purposes within the Territories in the possession and under the Government of the East India Company, and for the determination of the amount of compensation to be made for the same, it is enacted as follows:

Laws repealed.

I. Sections I. to VII. inclusive, Regulation I., 1824, of the Bengal Code; so much of Act XXVIII. of 1839, as is in force; Act I. of 1850; Act XVII. of 1850; Act XLII. of 1850; Act XX. of 1852; and Act I. of 1854—are hereby repealed, except so far as they repeal the whole or any part of any other Regulation or Act, and except as to suits or proceedings commenced, contracts made, acts done, and liabilities incurred before the passing of this Act.

Land may be taken by Government under the provisions of this Act after declaration made that it is required for a public purpose.

II. Whenever it appears to the local Government that any land is required to be taken by Government at the public expense for a public purpose, a declaration shall be made to that effect under the signature of a Secretary to the Government or of some officer duly authorized to certify the orders of the Government, and such declaration shall be conclusive evidence that the purpose for which the land is needed is a public purpose; and, after making such declaration, the Government may take any such land in the manner hereinafter provided.

After declaration Collector shall be directed to take order for acquisition of land as hereinafter provided.

III. Whenever any land shall have been declared to be so required for a public purpose, the Government shall direct the Collector of the district or some other officer specially appointed in that behalf, to take order for the acquisition of the land in the manner hereinafter provided.

Collector shall cause the land to be marked out and measured, and a plan to be made of the same; and give notice to all persons interested in the land.

IV. The Collector or other officer shall thereupon cause the land to be marked out and measured, and a plan to be made of the same. After the land has been so marked out and measured, he shall cause a notice to be affixed in some conspicuous place upon the land, and published by proclamation in the neighbouring bazaars and villages, to the effect that the land is about to be taken by Government for a public purpose;

and shall also give notice to the same effect to the occupier (if any) of such land, and to all such persons, known or believed to be interested therein or to be entitled by Section XXXVIII. of this Act to act for persons so interested, as shall reside or have agents within the Collectorate or other Revenue District in which the land is situate, by serving such notice on such persons or their agents. Such notice shall contain a citation calling on all persons interested in the land to appear personally or by agent at a time and place therein mentioned, such time not being less than fifteen days after the date of publication of the notice, and to state the nature of their interests in the land and the amount and particulars of their claims to compensation for the same.

Collector to enquire into the value of the land, and the amount of compensation to be awarded.

V. On the day fixed, the Collector or other officer shall proceed to enquire summarily into the value of the land and the amount of compensation to be awarded: and if he and all the persons interested who have attended in pursuance of the notice agree as to the amount of compensation to be allowed, shall make an award for the same; and if the said persons agree also in the apportionment of the compensation, such apportionment shall be specified in the award. The award shall be final and conclusive in regard to the value of the land and the amount of compensation for the same; and also in regard to the apportionment (if any) of the compensation among the persons who have agreed thereto. The Collector or other officer may, if no claimant shall attend pursuant to the notice, or if he shall think fit for any other cause, postpone the enquiry to a day to be fixed by him and notified in the manner provided in the preceding section.

Collector to make award which shall be conclusive.

Postponement of enquiry.

If no claimant attends, or if Collector and persons interested are unable to agree as to the amount of compensation, the dispute shall be referred to arbitrators.

VI. When the Collector or other officer proceeds to make the enquiry as aforesaid, whether on the day originally fixed for the enquiry or on the day to which the enquiry may have been postponed, if no claimant shall attend, or if the said Collector or other officer shall be unable to agree with the persons interested who have attended in pursuance of the notice, as to the amount of compensation to be allowed,

the matter shall be referred to the determination of arbitrators to be appointed in the manner hereinafter provided.

Who shall be deemed to be interested in the land in cases of conflicting claims.

VII. If upon the said enquiry any question arise, respecting the title to the land or any rights or interests therein, between two or more persons making conflicting claims in respect thereof, the person deemed by the Collector or other officer to be in possession as owner, or in receipt of the rents as being entitled thereto, shall, for the purpose only of taking such measures as may be necessary for fixing the value of the land and the amount of compensation to be allowed for the same, be held as between such persons to be the person interested in the land.

After Collectors award or reference to arbitration, possession may be taken, and the land shall be vested absolutely in the Government

VIII. When the Collector or other officer has made an award or directed a reference to arbitration, he may take immediate possession of the land which shall thenceforward be vested absolutely in the Government, free from all other estates, rights, titles, and interests.

Magistrate to enforce surrender of land.

IX. If the Collector or other officer is opposed or impeded in taking possession of such land, he shall apply to the Magistrate who shall enforce the surrender of the land. [Repealed by Act II., 1861.]

Appointment of arbitrators.

X. *Clause* 1.—When any case is referred to arbitration, the Collector or other officer, and the person interested in the land, shall, unless they concur in the appointment of a single arbitrator, each appoint one arbitrator; if there be several persons having a joint interest in the land, and they cannot agree in the appointment of an arbitrator, such disagreement shall be deemed a refusal to appoint within the meaning of the next following section.

Clause 2.—If there be several persons having distinct and separate interests in the land, and they cannot agree in the appointment of an arbitrator on their behalf, it shall be competent to the Collector or other officer (subject to the orders of the Commissioner or other superior Revenue authority) to refer the question of the compensation to be allowed for each of such distinct and separate interests to a separate arbitration or to select any one of the persons interested whose interest appears to him

to qualify such person to represent the others; and the person so selected shall appoint an arbitrator on behalf of all the persons interested.

In every case the appointment shall be in writing, and neither of the parties to the arbitration shall have power to revoke the same without the consent of the other.

If no claimant attend, or if no arbitrator be appointed by the persons interested, the arbitrator appointed by the Collector shall proceed to arbitrate.

XI. If no claimant shall have attended, or if the persons interested in the matter in dispute or authorised to act in that behalf, refuse or neglect for the period of fifteen days to appoint an arbitrator, then a single arbitrator appointed by the Collector or other officer shall arbitrate the matter. Provided that the person so appointed shall not be an officer of Government.

Proviso.

Appointment of a third arbitrator.

XII. When more than one arbitrator shall be appointed, the arbitrators shall, before they enter upon the matter referred to them, nominate and appoint by writing a third person to act with them as arbitrator; and in case the arbitrators shall neglect to appoint such third person for a period of one week after having been required to do so, the Collector or other officer shall appoint a third arbitrator.

Arbitrator refusing or becoming incapable to act, &c.

XIII. If any person on being appointed an arbitrator, shall refuse to act, or, after accepting the appointment, shall die or become incapable of acting, another person shall be appointed in his stead, in the same manner in which the first person was appointed.

The arbitrators may by consent determine the proportions in which the persons interested are entitled to share in the amount of compensation awarded.

XIV. When the amount of compensation is referred to arbitration, it shall be competent to the Collector or other officer, with the written consent of all the persons interested, to require the arbitrators to determine the proportions in which all such persons are entitled to share in the amount awarded.

Appointment of arbitrators by consent to apportion the compensation in cases where the amount thereof has been agreed upon or has been settled by arbitration.

XV. When the Collector or other officer and the persons interested in the land agree as to the amount of compensation, or when such amount shall have been settled by arbitration, if any dispute shall arise as to the appointment of the same, or any part thereof,

it shall be competent to the Collector or other officer, with the written consent of all persons interested in the matter in dispute, to refer the same to arbitration. If the parties cannot agree with respect to the nomination of the arbitrators, or if the persons nominated by them shall refuse to accept the arbitration, or, having accepted it, shall refuse to act, and the parties are desirous that the nomination shall be made by the Collector or other officer, he shall appoint some proper person or persons to arbitrate the matter. The provisions of this Act relative to arbitrators appointed under Sections X. and XI., and to the proceedings of such arbitrators shall be applicable to persons appointed arbitrators under this Section.

Collector to exercise certain powers for securing attendance of arbitrators and completion of award.

XVI. After the arbitrators have accepted the appointment, the Collector or other officer shall be competent to exercise towards them such powers and authority for securing their attendance and the due completion of their award, as the Collector may legally exercise towards witnesses summoned before him when acting judicially for the purpose of compelling them to attend and give evidence.

In default of award within a specified period other arbitrators may be chosen.

XVII. If no award be made within a period to be fixed for that purpose by the Collector or other officer, he may order that the matter shall be referred to another arbitrator or other arbitrators, to be chosen in the same manner and subject to the same rules as the first.

Collector to furnish information to the arbitrators, and to enforce the attendance and examination of witnesses, &c.

XVIII. The Collector or other officer shall furnish the arbitrators, or so far as may be in his power procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry. He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings, maps and plans as they shall require. Persons so summoned shall be subject to all the provisions of the laws in force regarding persons summoned as witnesses before the Collector when acting judicially.

Witnesses to be examined upon oath, &c., before arbitrators.

XIX. Every witness examined before the arbitrators shall be examined upon oath or affirmation to be administered by or made before the said arbitrators.

Award of the arbitrators.

XX. On the close of the enquiry, the arbitrators or a majority of them shall deliver a full and complete award in respect of the matter referred to them, and shall therein specify (as the nature of the case may require) the amount and particulars of compensation, awarded by them, the persons entitled to compensation, and the proportions in which they are so entitled.

Remuneration of arbitrators.

XXI. The arbitrators on making their award shall be entitled to reasonable fees for their services the amount of which shall be fixed by the Collector or other officer subject to the orders of the Commissioner or other superior Revenue authority.

Costs.

XXII. The award shall declare the costs of the arbitration and by whom and in what proportion they shall be paid. All costs, including the fees of the arbitrators, incurred for the purpose only of determining the amount of compensation to be allowed for the land, shall be charged to the Government, unless the arbitrators shall award as compensation the same or a less sum than shall have been offered by the Collector or other officer, in which case each party shall bear his own costs so incurred, and shall also pay a moiety of the fees of the arbitrators. Costs incurred for determining the apportionment of the compensation among the persons interested, shall be paid by such persons in such proportions as the arbitrators shall direct.

Proceedings of the arbitration to be deposited in the Collector's office.

XXIII. The proceedings of the arbitration shall be deposited in the office of the Collector or other officer; and every person interested therein shall be entitled to a copy of the award on plain paper under the seal and Signature of the Collector or other officer, which copy shall be *primâ facie* evidence thereof.

Compensation to include damage done to adjoining land.

XXIV. When any land is taken under the provisions of this Act, the amount of compensation to be awarded shall include any damage which may be sustained by any of the persons interested therein in respect of any adjoining land held therewith.

If compensation be awarded for damage, the value of the land and the amount of damage to be specified separately.

XXV. If any compensation beyond the value of the land be awarded on account of any damage which may be sustained by any person interested in the land, the award shall specify the value of the land and the amount of such damage separately, and also the name of the person to whom compensation for damage is awarded.

Proceeding where land paying revenue to Government is taken.

XXVI. When any land taken under this Act forms part of an estate paying revenue to Government, the award shall specify the net rent of the land including the Government Revenue, and the computed value of such rent; and it shall be at the discretion of the Revenue authorities either to pay over the whole of such value to the owner of the estate on the condition of his continuing to pay the jamma thereof without abatement, or to determine what proportion of the net rent shall be allowed as a remission of revenue, in which case a deduction shall be made from the said value proportionate to the value of such remission.

Amount of compensation, when and how to be paid.

XXVII. When the amount of compensation to be paid for land taken under the provisions of this Act is determined by the award of the Collector or other officer under Section V. he shall pay the amount awarded at the time when possession is taken of the land on account of Government. When the compensation is determined by the award of arbitrators under Section XX. the Collector or other officer shall pay the amount awarded with interest at the rate of 6 per centum per annum from the time when possession was taken of the land on account of Government.

Payment of compensation, to whom to be made.

XXVIII. Except as provided in the next following section payment of the compensation shall be made, according to the award, to the persons named therein. Provided always that nothing in this Act contained shall affect the liability of any person who may receive the compensation awarded for any land or any portion of such compensation to pay the same to the person lawfully entitled thereto.

Proviso.

Payment of compensation may in certain cases be deferred.

XXIX. If there exist any ground which, in the judgment of the Collector or other officer, renders it improper to make immediate payment of the

compensation, or of any portion thereof, to any of the persons having or claiming any interest in the land or in the compensation awarded in respect thereof, the amount, or such portion of the amount as he may deem sufficient, shall be invested in Government Securities, and held in deposit until an order of Court shall be obtained for the payment thereof. Such order shall be obtained in the Court which would have had jurisdiction in respect of the land taken.

Amount to be held in deposit until an order of Court is obtained for payment thereof.

XXX. If the land taken be within the local limits of any of Her Majesty's Supreme Courts of Judicature, and the amount of compensation awarded do not exceed five hundred rupees, the order may be made by the Court of Small Causes.

In certain cases the Small Cause Court may order payment.

XXXI. No award of arbitrators made in accordance with the provisions of this Act, shall be liable to be reversed or altered, except by the decision of a Civil Court on the ground of corruption or misconduct of the arbitrators. In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators to be appointed in the same manner as the first. All suits to set aside an award under this Act shall be instituted within three months from the date of the award.

Reversal or alteration of award.

XXXII. The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house or other building or manufactory, if the owner desire that the whole of such house, building, or manufactory shall be taken.

A part of a house or building not to be taken.

XXXIII. Whenever any land is needed for a road, canal, railway, or the like, and the Local Governmen makes the declaration provided in Section II., it shall not be necessary to specify the extent, limits, or position of the land, but it shall be sufficient to declare the general direction of the line of the work and the average breadth of the land required for the same.

When land is needed for a road, canal, &c., only the general direction of the line shall be declared.

XXXIV. When any declaration has been made under the provisions of Section II. of this Act, the Collector or other Officer may authorise any person, with his servants and workmen, to

After declaration, persons authorised may enter upon the land and make a survey.

enter upon the land for the purpose of making a survey thereof; and in the case of a road, canal, or railway, to set out the intended line thereof, and to mark such line by cutting a trench or placing land marks; and where otherwise the survey cannot be completed, and the line marked, to cut down and clear away any part of any jungle or tope of trees in the direction of the intended line. Provided that no person shall enter into any house or building or upon the curtilage of any house or any enclosed garden (unless with the consent of the occupier thereof) without previously giving the said occupier twenty-four hours' notice of his intention to do so.

Line of road may be marked out.

Land may be cleared.

Previous notice of entry to be given to occupiers of houses, &c.

XXXV. It shall be the duty of the Collector or other officer to take account of all necessary damage done as aforesaid, and forthwith to offer payment for the same to the persons interested. In case the offer is not accepted, the damage shall be allowed for in the compensation to be awarded.

Account of damage to be taken and payment to be offered.

XXXVI. Whoever wilfully obstructs any person in lawfully setting out the line of any road, canal, or railway, or wilfully destroys, damages, or displaces any landmark, or effaces or fills any trench intended to mark such line, shall, on conviction, be liable to be imprisoned for any term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Obstruction to setting out line of works, &c.

XXXVII. The powers of this Act shall extend, in the case of any road, canal, or railway, to authorise the temporary occupation of any land not more than one hundred yards from the centre line of the road, canal, or railway, as marked on the ground, for taking earth or other materials for making or repairing the road, canal or railway, or for depositing thereon superfluous earth or other materials, or erecting temporary buildings and workshops thereon, and of any land which may be needed for making temporary roads, from any public road to the intended line of railway; and for the temporary occupation of any such land, and for any permanent damage done by such occupation and use of the land, including the full value of all clay, stone,

Temporary occupation of adjacent land.

Compensation for temporary occupation.

gravel, sand, and other materials taken thence, compensation shall be paid to and among all persons having an interest therein to be ascertained, in case of disagreement, in the same manner as compensation for land permanently taken. [Repealed by Act II., 1861.]

Trustees, Committees of lunatics, &c., empowered to act.

XXXVIII. In any proceedings under this Act the following persons shall be deemed persons entitled to act as and to the extent hereinafter provided (that is to say):—A trustee or trustees for other persons beneficially interested shall in all cases be deemed the person or persons entitled to act with reference to any such proceedings, and that to the same extent as the persons beneficially interested could have acted if free from disability. A married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and whether of full age or not to the same extent as if she where unmarried and of full age. The guardians of minors and the committees of lunatics or idiots shall be deemed respectively the persons so entitled to act to the same extent as the minors, lunatics, or idiots themselves, if free from disability, could have acted.

Interpretation.

XXXIX. The following words and expressions in this Act shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction (that is to say):—

The words "the Local Government" shall mean the person or persons for the time being immediately administering the Executive Government of that portion of the territories in the possession and under the Government of the East India Company in which the land in question is situate; and shall include any Chief Commissioner or other chief civil officer of a province whom the Governor General in Council may authorise to exercise the powers vested by this Act in the Local Government.

The word "land" shall extend to tenements and hereditaments of any tenure, and all houses, buildings, trees, or appurtenances thereupon, as well as land.

The expression "person interested in the land" shall include all persons interested in the land either for life or for years, or in remainder, reversion, or succession, and all mortgagees, lease-

holders, or tenants, not being tenants by the month or at will, of such land.

Words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular.

Words importing the masculine gender only shall include females.

The word "person" shall include a corporation.

MADRAS.—UNCOVENANTED AGENCY.

Act No. VII. of 1857.

[*Received the assent of the G. G. on the* 1*st May*, 1857.

Recites necessity of employing uncovenanted officers more extensively in Madras.

1. Permits the Governor in Council to appoint uncovenanted Deputy-Collectors and Deputy-Magistrates in any Zillah.

2. Such officers to subscribe the same oath or declaration as Assistant Collectors and Assistant Magistrates.

3, 4. A Deputy-Collector or Deputy-Magistrate may perform such of the duties and exercise such of the powers of a covenanted Assistant as shall be assigned to him and shall be subject to the same control.

5. One officer may hold both offices.

6. Such officers shall not be dismissed without the sanction of the Governor in Council.

An Act for the more extensive employment of uncovenanted agency in the Revenue and Judicial Departments in the Presidency of Fort Saint George.

Preamble.

Whereas the exigencies of the public service require the more extended employment of uncovenanted officers in the Revenue and Judicial Departments in the Presidency of Fort Saint George, it is hereby enacted as follows:

Governor in Council may appoint uncovenanted Deputy-Collectors and Deputy-Magistrates.

I. The Governor of Fort Saint George in Council may appoint, in any Zillah or District within the said Presidency, one or more uncovenanted Deputy-Collectors and Deputy-Magistrates with the powers hereinafter mentioned.

Oath or declaration in writing to be made by the officers so appointed.

II. Every person appointed a Deputy-Collector or Deputy-Magistrate under this Act shall, before entering upon the duties of his office, make and subscribe an oath or declaration in writing to the same effect as the oath prescribed by law for Assistant Collectors and Assistant Magistrates respectively.

Duties and powers of a Deputy-Collector.

III. A Deputy-Collector appointed under this Act may, within the district to which he is appointed, perform such of the duties and exercise such of the powers of a covenanted Assistant Collector as shall be assigned to him from time to time by the Collector of such districts; and shall be subject to the same control in all respects as a covenanted Assistant Collector is subject to.

Duties and powers of a Deputy-Magistrate.

IV. A Deputy-Magistrate appointed under this Act, may, within the district to which he is appointed, perform such of the duties and exercise such of the powers of a covenanted Assistant Magistrate as shall be assigned to him from time to time by the Magistrate of such district; and the decisions and orders of such Deputy-Magistrate shall be subject to the same rules, as respects appeals, as are or may be provided in the case of the orders and decisions of covenanted Assistant Magistrates. [Repealed by Act XVII., 1862.]

Nothing in the Act to disqualify one officer from holding both offices.

V. Nothing in this Act contained shall be held to disqualify any uncovenanted officer appointed under this Act from holding at the same time the offices of Deputy-Collector and Deputy-Magistrate.

Rules regarding dismissal of Deputy-Collectors or Deputy-Magistrates.

VI. A Deputy-Collector or Deputy-Magistrate appointed under this Act shall not be dismissed from office without the sanction of the Governor in Council. Whenever there may be reason to believe that a Deputy-Collector or Deputy-Magistrate is disqualified by neglect, incapacity, or corruption for continuance in office, a report shall be submitted by the Collector or Magistrate through the proper channel for the consideration and orders of the Governor in Council, who shall be competent to suspend such Deputy-Collector or Deputy-Magistrate and order a further enquiry into his conduct, or to direct his immediate dismissal, as may appear just and proper.

Act XV., 1843, is for same purposes as this Act as respects Bengal; and Act IV., 1851, as respects Bombay.

COURTS MARTIAL.

Act No. VIII. of 1857.

[*Received the assent of the G. G. on the 16th May*, 1857.

Recites expediency of facilitating punishment of offences in the Native Army.

1. The Governor General in Council may empower Officers having command of troops to appoint General or District or Garrison Courts Martial, and to confirm and carry out, or to commute, mitigate, remit or refer the sentences thereof.

2. General Courts Martial shall be appointed by the Senior Officer on the spot; shall consist of not less than five members, and wholly of European or of Native Officers as the order in Council shall direct; and shall have all the powers specified in the 75th Article of War

3, 4. Confirm General Order No 677 of 1857 of the Governor General in Council, but allow the same to be altered or countermanded by the Governor General in Council.

An Act to amend Act XIX. of 1847.

Repealed by Act XXIX., 1861.

PATENT LAW.

Act No. IX. of 1857.

[*Received the assent of the G. G. on the 20th May*, 1857.

Recites that the Court of Directors have disallowed Act VI. of 1856 and repeals it.

An Act to repeal Act VI. of 1856.

Preamble. Whereas the Court of Directors of the East India Company have, in pursuance of the power vested in them by law disallowed Act VI. of 1856, and have signified to the Governor General of India in Council their disallowance thereof, it is enacted as follows:

Act repealed. I. Act VI. of 1856 is hereby repealed.

Act XV. of 1859 is the present Patent Law.

SONTHAL DISTRICTS.

Act No. X. of 1857.

[*Received the assent of the G. G. on the 20th May*, 1857.

Recites expediency of making alterations in respect to the Districts made Non-Regulation Districts by Act XXXVII. of 1855.

1. The provisions of Act XXXVII., 1855, to be applicable only to the Districts described in the Schedule to this Act.

An Act to amend Act XXXVII. of 1855.

Preamble.

Whereas by Act XXXVII. of 1855 certain districts described in the Schedule to the said Act were removed from the operation to the general Regulations and Acts; and whereas it is expedient to make certain alterations in respect to the districts so removed, it is enacted as follows:

Districts removed from the operation of the General Regulations and Acts.

I. So much of Act XXXVII. of 1855, as removes from the operation of the general Regulations of the Bengal Code, and Acts of the Government of India, the districts described in the schedule thereto, and the said schedule, are hereby repealed, except as to any proceedings pending at the time of the passing of this Act; and all the provisions of the said Act, which are applicable to the districts described in the said schedule, shall, after the passing of this Act, be applicable only to the Districts described in the schedule to this Act, in the same manner as if the schedule to this Act had been the schedule to Act XXXVII. of 1855.

SCHEDULE.

The Damun-i-Koh.

So much of Pergunnah Bhaugulpore and of Pergunnah Suttieare as lies East of the Gerooah Nuddee and South of a line drawn Eastward from Humza Chuck to the village of Dighee.

ZILLAH BHAUGULPORE.

Pergunnah Teleeagurhee. " Jumoonee. " Chetowleah. " Kankjole. " Bahadurpore. " Akbernugger. " Inayutnugger. " Mukraen. " Sooltangunge.	Except such parts of them as are now or may hereafter be situate on the left bank of the main stream of the Ganges, so that in any change in the course of the river the main stream shall be the boundary.

Zillah Bhaugulpore. *Continued.*	Pergunnah Umber. „ Sooltanabad. „ Godda. „ Umloo Mooteah. „ Pussye. „ Hendwa. Tuppeh Muneeharee. „ Belputta.	Except such detached villages as lie within the general boundaries of Pergunnahs not mentioned in this schedule.
Zillah Beerbhoom.	Pergunnah Pubbia. Tuppeh Saruth Deoghur. „ Kundit Kurayeh. „ Mohumdabad. Such part of Pergunnah Dureen Molisser as lies North of the Chilla or Chundun Ghat Nullah.	

Such detached portions of other Pergunnahs and Tuppehs as lie within the general boundaries of any of the above-mentioned Pergunnahs and Tuppehs.

Such portions of Pergunnahs belonging to Maldah and Purneah below the village of Khederpore in Pergunnah Teleagurhee, as are now or may hereafter be situate on the right bank of the main stream of the Ganges.

STATE OFFENCES.

Act No. XI. of 1857.

[*Received the assent of the G. G. on the* 30*th May*, 1857.

Recites expediency of providing for the prevention, trial, and punishment of State offences.

1, 2. Impose on all who owe allegiance the penalty of death, or transportation for life, or imprisonment for 14 years, for rebellion or instigation or abetting of rebellion; and of imprisonment for seven years for harbouring or concealing rebels.

3. The Government, after proclaiming any district to be in a state of rebellion, may issue a Commission for the trial of all offenders against the State or against person or property, and such Court may be held in any part of the district named.

4. The Government may by such Commission dispense with the attendance of Law Officers, the assistance of Assessors, and appeals to the Sudder.

5. Any Magistrate within the district named may commit to such Court for trial.

6. Act not to apply to British subjects.

7. The Government may prohibit the carrying or possession of arms by any person or class of persons.

8. Imposes fine, confiscation or imprisonment for the unlawful possession of arms.

9. Magistrate may issue search-warrants for arms.

10. The Government may exempt certain persons.

11 Interpretation Clause.

An Act for the prevention, trial, and punishment of offences against the State.

Preamble.

Whereas it is necessary to make due provision for the prevention, trial, and punishment of offences against the State, it is enacted as follows:

Punishment for rebellion, or for waging war against the Government.

I. All persons owing allegiance to the British Government who, after the passing of this Act, shall rebel or wage war against the Queen or the Government of the East India Company, or shall attempt to wage such war, or shall instigate or abet any such rebellion or the waging of such war, or shall conspire so to rebel or wage war, shall be liable, upon conviction, to the punishment of death, or to the punishment of transportation for life, or of imprisonment with hard labour for any term not exceeding fourteen years; and shall also forfeit all their property and effects of every description.

Proviso.

Provided that nothing contained in this section shall extend to any place subject to Regulation XIV. of 1827, of the Bombay Code. [Repealed by Act XVII., 1862.]

Punishment for harbouring or concealing offenders.

II. All persons who shall knowingly harbour or conceal any person who shall have been guilty of any of the offences mentioned in the preceding section shall be liable to imprisonment, with or without hard labour, for any term not exceeding seven years, and shall also be liable to fine. [Repealed by Act XVII., 1862.]

Executive Government may issue a Commission for the trial of persons charged with certain offences in any proclaimed district.

III. *Clause* 1.—Whenever the Executive Government of any Presidency or place within the said territories shall proclaim that any district subject to its Government is or has been in a state of rebellion, it shall be lawful for such Government to issue a Commission for the trial of persons who

shall be charged with having committed within such district, after a day to be specified in the Commission, any of the crimes mentioned in the preceding sections, or any other crime against the State, or murder, arson, robbery, or other heinous crime against person or property.

Court may be held in any part of the district.

Clause 2.—The Commissioner or Commissioners authorized by any such Commission may hold a Court in any part of the said district mentioned in the Commission, and may there try any person for any of the said crimes committed within any part thereof; it being the intention of this Act that the district mentioned in the Commission shall, for the purpose of trial and punishment of any of the said offences, be deemed one district.

Government may vest certain powers in the Court.

IV. It shall be lawful for the Executive Government, by such Commission, to direct that any Court held under the Commission, shall have power, without the attendance or futwa of a Law Officer, or the assistance of Assessors, to pass upon every person convicted before the Court of any of the aforesaid crimes any sentence warranted by law for such crime: and that judgment of such Court shall be final and conclusive; and that the said Court shall not be subordinate to the Sudder Court.

Magistrate may commit persons for trial before a Court held under this Act.

V. If a Commission be issued under the authority of this Act, any Magistrate within the district which is described in the Commission may commit persons charged with any of the aforesaid crimes within such district for trial before a Court to be held under this Act.

Act not to apply to British-born subjects or their children.

VI. Nothing in this Act shall extend to the trial or punishment of any of Her Majesty's natural-born subjects born in Europe, or children of such subjects.

Government may issue proclamation prohibiting the carrying or possession of arms in any district.

VII. Whenever the Executive Government shall deem it necessary for the public safety, it shall be lawful for such Government to declare, by proclamation, that from and after a day to be named therein, it shall not be lawful for any person, or for any specified class of persons, to carry or have in their possession any arms or instruments used for warlike

purposes, or any specified description of arms or instruments aforesaid, within any district mentioned in the proclamation.

Penalty for unlawful possession of arms, &c.

VIII. After the day named in the proclamation, whoever shall carry or have in his possession any arms or other such instrument as aforesaid, contrary to the proclamation, shall be liable, on conviction before a Magistrate, to a fine not exceeding Fifty Rupees, or to imprisonment for a period not exceeding six months; and the arms, or other such instrument as aforesaid, shall be confiscated.

Magistrate empowered to search houses, &c., and to seize arms.

IX. It shall be lawful for a Magistrate, by warrant, to cause search to be made in any house or other place in which there may be reasonable grounds for suspecting that any arms or other such instrument as aforesaid, kept contrary to the proclamation may be found; and any such arms or instrument may be seized and confiscated.

Government may grant exemption to certain persons.

X. Nothing in Sections VII., VIII., and IX. of this Act shall extend to any person who may be exempted by the authority of the Executive Government from the prohibition contained in such proclamation.

Interpretation.

XI. The word "Magistrate" in this Act shall include any person lawfully exercising the powers of a Magistrate and any Assistant to a Magistrate or Deputy-Magistrate specially authorised by the Executive Government to exercise the powers vested in a Magistrate by this Act.

STRAITS' SETTLEMENTS.—PIRATICAL JUNKS.

Act No. XII. of 1857.

[*Received the assent of the G. G. on the* 29*th May*, 1857.

Recites belief that Junks periodically visit the Straits, under cover of trade, to equip for piratical purposes.

1. Authorises the chief resident civil authority to issue in writing a search-warrant and order of enquiry, and imposes a penalty for the obstruction of such search or enquiry.

2. On solemn proof of reasonable cause for suspicion, the chief resident civil authority may issue a warrant for the seizure of any Junk.

3. Such seizure to be reported to the Governor for his orders.

4. Empowers the chief resident civil authority to summon, in writing, the master or crew as witnesses, and imposes fine or imprisonment or both for neglect of summons.

5. Proceedings for the condemnation of the vessel must be commenced within six months after seizure or the vessel and property must be released.

6. Empowers the chief resident civil authority to prevent a suspected vessel from proceeding to sea with an unnecessarily strong armament.

7. Damages not to be recovered for seizure on reasonable grounds, but proceedings may be had in any division of an Admiralty or Vice-Admiralty Court for condemnation or restitution of the vessel, and the vessel may be condemned without a previous conviction of the owner for piracy.

An Act to authorise the arrest and detention, within the ports of the Settlement of Prince of Wales' Island, Singapore, and Malacca, of Junks or Native Vessels suspected to be piratical.

Preamble.

Whereas there is reason to believe that certain Junks periodically visit the ports of the said Settlement ostensibly for the purposes of trade, but in reality to equip, arm, and fit themselves out for the purpose of making piratical attacks on peaceful trading vessels, in the vicinity of the Straits of Malacca, and elsewhere, it is hereby enacted as follows:

Penalty for obstructing search or enquiry ordered by the Chief Resident Civil Authority in respect of any Junk or Native Vessel.

I. The chief resident civil authority of any station of the said Settlement may, by an order in writing signed by him, at any time and as often as he shall deem it expedient, direct any public officer to proceed on board any Junk or other Native Vessel being in any port or place within the limits of the said station, and to search such vessel, and to take an account of the armament thereof, and to make such further and other enquiry and investigation into the objects, pursuits, and movements of the master or person in charge of such Junk or Vessel as the said chief civil authority shall think fit; and any person who shall hinder, obstruct, or in any wise prevent such search, investigation, or enquiry, or shall obstruct such public officer, or any person acting in his aid or assistance in the discharge of his duty, shall, on conviction before a Magistrate of Police, be liable to a fine not exceeding five hundred rupees, or to imprisonment, with or without hard labour, for a term not exceeding six calendar months, or to both.

Seizure and detention of any Junk or Native Vessel suspected to be piratical.

II. Whenever it shall be proved, by oath or affirmation to the satisfaction of the chief resident civil authority of any of the said stations, that there is reasonable cause to suspect that any Junk or Vessel in any port or place within the limits of the said station is a piratical vessel, or belongs to pirates, or is intended to be used for piratical purposes or for the purpose of knowingly trading with or supplying pirates, he may, by an order in writing signed by him, cause such Junk or Vessel, together with her tackle, apparel, and furniture, arms, stores, and ammunition, and the goods and merchandise laden therein, or any portion thereof, to be seized and detained.

Report of seizure and detention to the Governor.

III. Whenever any such Junk or Vessel, furniture, arms, stores, ammunition, goods, or merchandize, shall be seized and detained under the provisions of this Act, the chief resident civil authority shall report the circumstance, as soon as possible, to the Governor of the said Settlement, who shall give orders as to the detention or release of such Junk or Vessel, or other things so seized or detained.

Penalty for Master or Crew refusing or neglecting to attend as witnesses, or giving false evidence.

IV. The chief resident civil authority at any of the said stations may, by order in writing signed by him, summon the master, or person in charge and any of the crew, of any such Junk or Vessel which he may have reasonable cause to suspect as aforesaid, or any other person, to attend before him, and to produce any document in his possession, and may examine such persons upon oath or affirmation to be administered by him, touching any matter which may appear to be material for the purpose of ascertaining whether the said vessel is a piratical vessel or belongs to pirates, or is intended to be used as aforesaid. Every person so summoned, who refuses or neglect to attend or make answer, or to produce any document in his possession, concerning the matters hereby authorized to be inquired into, or who wilfully gives false evidence or otherwise misbehaves in giving or refusing to give evidence, shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding five hundred rupees, or to imprisonment, with or without hard labor, for a term not exceeding six calendar months, or to both.

No vessel, or property on board thereof, to be detained beyond six months, unless proceedings commenced within that time.

V. No Vessel or other things seized or detained in pursuance of the provisions herein contained, and no property on board thereof, shall be detained for a longer period than six months, unless within that time proceedings shall have been commenced for the condemnation thereof.

Suspected vessels not to leave Port with increased armament, &c.

VI. Whenever it shall be made to appear to the satisfaction of the chief resident civil authority of any of the said stations, that there are reasonable grounds to suspect that any Junk or Native Vessel is about to proceed to sea from any port or place within the said station so manned, armed, equipped, furnished, or fitted out, as to afford reasonable ground to suspect that the said Vessel is intended for piratical purposes, it shall be lawful for the said chief civil authority to take such measures as may be necessary or proper to prevent such vessel from proceeding to sea from such port or place, so long as the same is manned, armed, equipped, furnished, or fitted out beyond what he may deem sufficient for the due navigation and protection thereof as a trading vessel.

No damages to be recovered for seizure on reasonable grounds of suspicion.

VII. No damages shall be recovered for the seizure or detention of any Vessel or other thing in pursuance of this Act, if it shall appear that there were reasonable grounds to suspect that the Vessel or other thing so seized or detained was piratical or belonged to any pirate or pirates, or was intended to be used for piratical purposes or for the purpose of knowingly trading with or supplying pirates; but whenever any Vessel or other thing shall be seized or detained under the provisions of this Act, proceedings may be taken in any Admiralty or Vice-Admiralty Court having jurisdiction over the place where the seizure was made, or in any division of such Court, for the condemnation or for the restitution of such Vessel or other thing; and if, in such proceeding, it shall appear to the Court that such Vessel or other thing was piratical, or belonged to pirates, or was intended to be used for piratical purposes, or for the purpose of knowingly trading with or supplying pirates, the same shall be forfeited and condemned without a previous conviction of the owner or of any other person of the crime of piracy.

Condemnation or restitution of Vessel.

BENGAL.—OPIUM.

ACT No. XIII. OF 1857.

[*Received the assent of the G. G. on the 6th June*, 1857.

Recites expediency of removing the existing inconsistency between the law and the practice as to the cultivation of the Poppy and the manufacture of Opium, and of repealing obsolete Regulations, and of consolidating and amending the law on the subject.

1. Repeals R. 32, 1793; R. 32, 1795; R 53, 1795; R. 13, 1816, ss. 1 to 40; R. 7, 1824, s. 18, c. 1 to 5.; R. 7, 1824, ss. 23, 24.

2. Prohibits cultivation or manufacture in Bengal except on account of the Government.

3. The superintendence of the provision of opium to be entrusted to covenanted servants of the Company, appointed by the Government, and under control of the Board of Revenue, assisted by such Deputies, covenanted or uncovenanted, as Government shall appoint, the Collector, being ordinarily *ex-officio* Deputy and the duties of Deputies being regulated by the Board.

4, 5. Opium Agents and their subordinates to be amenable to the Civil Courts, but not till after application for redress to the Agent himself; and Opium Agents themselves not to sue without sanction.

6. The Board itself may conduct or defend suits or appoint an officer for the purpose.

7. The Board may fix limits and price of cultivation.

8. Regulates the issue of licenses.

9. Officers not to compel cultivators to enter into engagement, but may, subject to appeal, withhold licenses to cultivate.

10. A Deputy, on complaint of a Sub-Deputy Agent, and subject to an appeal to the Agent, may adjudge a penalty of three times the amount of the advances for all uncultivated land.

11. Opium to be delivered according to the directions of the Agent and not to be liable to distress or attachment. The value thereof may be attached.

12. Opium to be weighed and classified by the Sub-Deputy Agent in the cultivator's presence and according to sanctioned rules—Remedy of dissatisfied cultivator.

13. On weighment and examination at the Sudder factory, the decision of the Examiner or Agent to be final.

14. Opium suspected to be adulterated may be sealed up for examination, and the Agent, on the report of the Examiner, may order it to be confiscated, and such order to be final.

15. Regulates the provision, use, and periodical examination of weights and scales.

16. The cultivator's accounts to be annually adjusted by the district officers, and balance to be recovered, after sanction of the Agent obtained, by distress.

17. Imposes fine on officer taking unauthorised gratuity.

18. Illegal exactions by landholders to be recovered, together with a fine of treble the amount, by summary suit.

19. Confiscates embezzled Opium, and imposes a penalty of ten times the fixed price, or 500 rupees, for embezzlement.

20. Imposes a fine not exceeding 1,000 rupees for illegal purchase of opium, or connivance by officers at embezzlement thereof.

21, 22. Impose penalties for unlicensed cultivation of Opium, and for knowingly neglecting to give information of such cultivation.

23. Imposes a fine not exceeding 100 rupees on Opium officers or 500 rupees on Police and Abkaree officers knowingly neglecting to give immediate information of illegal cultivation.

24. Regulates proceedings of Police, Abkaree, and Opium officers on receipt of information of illegal cultivation.

25. Empowers landholders, &c., to attach any Poppy illegally grown, reporting such attachment without delay.

26. Penalties to be adjudged by the Magistrate on information given, within one year after the offence, by the Deputy or Sub-Deputy Agent or the Collector.

27. Person fined may be imprisoned on default of payment.

28, 29. Impose for every conviction subsequent to the first, a further imprisonment not exceeding six months in the Civil Gaol in addition to the penalty for the offence.

30. Regulates the disposal of fines and forfeitures.

31. Empowers the Governor General in Council to authorise free cultivation and manufacture in any district and to prescribe rules for the delivery of Opium so produced to the officers of Government.

An Act to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal.

Preamble.

Whereas the existing law relating to the cultivation of the Poppy and the manufacture of Opium on account of Government is in some respects inconsistent with the practice which now obtains under agreement between the Opium Agents and the cultivators, and it is expedient that such inconsistency should be removed; and whereas it is also expedient that certain obsolete Regulations relating to the provision of Opium should be formally repealed, and that the laws for preventing the illicit cultivation of the Poppy, and for regulating the cultivation of the Poppy and the manufacture of Opium on account of Government, should be consolidated and amended, it is enacted as follows:

Laws repealed.

I. Regulation XXXII., 1793, Regulation XXXII., 1795, Regulation LIII., 1795, Sections I. to XL., of Regulation XIII., 1816, and Clauses 1 to 5, Section XVIII., and Sections XXIII. and XXIV., of Regulation

VII., 1824, of the Bengal Code, are hereby repealed, except so far as they repeal the whole or part of any other Regulation, and except as to acts done, offences committed, and liabilities incurred, before the passing of this Act.

Poppy cultivation and Opium manufacture except for Government prohibited.

II. The cultivation of the Poppy and the manufacture of Opium within the territories under the Presidency of Fort William in Bengal, except on account of Government, are hereby prohibited.

To what Agents the Superintendence of the provision of Opium shall be intrusted.

III. The Superintendence of the provision of Opium for Government shall be intrusted to Agents or other officers, being covenanted servants of the Company, duly appointed by Government in that behalf, who perform the duties connected therewith under the control and direction of the Board of Revenue in Calcutta. The Agents, or other officers as aforesaid, shall be assisted by Deputy Agents, Sub-Deputy Agents, or such other officers, covenanted or uncovenanted, as the Government may from time to time appoint for the purpose. The Collector of the District shall ordinarily, and unless Government shall otherwise direct, be *ex-officio* Deputy Agent, and the relative duties and powers of the Deputy Agents and Sub-deputy Agents shall be from time to time regulated by the said Board with the sanction of Government.

Opium Agents amenable to the Civil Courts.

IV. The Opium Agents, and their subordinate officers of every description, are declared amenable to the Civil Courts for all acts done by them in their official capacity, except as otherwise herein provided. But no suit shall be instituted against an Agent, or any subordinate officer, for any act done in his official capacity, unless the person who shall consider himself aggrieved by the act of such Agent or officer shall have first made application for redress to the Agent himself. In the event of such person not being satisfied with the order which the Agent may pass upon his application, it shall then be competent to him either to lay his case by petition before the Board of Revenue, or at once to seek redress in the Civil Court.

No suit to be brought unless application for redress first made to Agent

Opium Agent not to sue without sanction of Board of Revenue.

V. The Opium Agents shall not in their official capacity institute any suit in a Civil Court without the previous sanction of the Board of Revenue.

Board of Revenue may in certain cases appoint an officer to conduct or defend suits.

VI. In cases in which the Board of Revenue may judge it expedient, or in which they may be so directed by Government, they may take upon themselves, or intrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which they or an Agent, or any other officer subordinate to them, may be engaged, instead of leaving such superintendence to the Agent or any other officer.

Board to fix limits of cultivation and price to be paid to cultivators.

VII. The Board of Revenue, with the sanction of Government, shall from time to time fix the limits within which licenses may be given for the cultivation of the Poppy on account of Government. With the like sanction, they shall from time to time fix the price, to be paid to the cultivators for the Opium produced. The price shall be fixed at a certain sum per seer of eighty tolas for Opium of a certain standard consistence, and shall be subject to a rateable reduction, according to a scale sanctioned by the Board of Revenue, for Opium of a consistence below the standard.

Issue of licenses.

VIII. The Sub-Deputy Agents, or other officers intrusted with the superintendence of the cultivation, shall, at the proper period of the year, issue licenses to the cultivators, who may choose to engage to cultivate the Poppy, and to deliver the produce to the officers of Government at the established rates. Every license shall specify the number of beegahs which the party engages and is authorised to cultivate, and shall be in such form as the Agent, with the sanction of the Board of Revenue, may direct. A counterpart engagement, in conformity with the tenor of the license, shall be taken from the cultivator.

What to be specified in license.

Cultivator to have option whether to engage to cultivate or not.

IX. It shall be at the option of every cultivator to enter into engagements for the cultivation of the Poppy or not as he may think fit; and any Sub-deputy Agent or other officer as aforesaid, or any inferior officer employed in the provision of Opium, who shall compel, or use any means to compel, any cultivator to enter into engagements, or to receive advances, for the cultivation of the Poppy, shall be liable to be dismissed from his situation. It

Officers compelling cultivator to enter into engagement liable to be dismissed.

Sub-deputy Agent may, subject to appeal, withhold license to cultivate.

shall be at the option of the Sub-deputy Agent, or other officer as aforesaid, to withhold a license from any cultivator whenever he may think proper so to do. Any person to whom a license has been refused may appeal to the Agent, and the decision of the Agent shall be final.

Penalty on cultivator who has received advances neglecting to cultivate the full quantity of land.

X. If it shall be found that any cultivator who has received advances from Government, has not cultivated the full quantity of land for which he received such advances, he shall be liable to a penalty of three times the amount of the advances received for the land which he has failed to cultivate; and the said penalty may be adjudged by the Deputy Agent or Collector, on the complaint of the Sub-deputy Agent or other officer as aforesaid. Any person, dissatisfied with the judgment of the Deputy Agent or Collector, may appeal to the Agent, and the decision of the Agent shall be final.

Adjudication of penalty.

Delivery of the Opium produced.

XI. All Opium the produce of land cultivated with Poppy on account of Government, shall be delivered by the cultivators to the Sub-deputy Agents or other district officers, or shall be brought by them to the Sudder Factory, as the Agent may direct. And no such Opium shall be liable to be distrained or attached by a zemindar or other proprietor, or a farmer of land, for the recovery of arrears of rent, or by any other creditor of a cultivator under any order or decree of Court, but the sum due to the cultivator on account of such Opium may be attached by order of Court in the hand of the Agent or of the district officer under the rules in force for such attachments.

Such Opium not liable to distress or attachment.

Value thereof may be attached.

Opium to be weighed and classified by Sub-deputy Agent.

XII. All Opium delivered by the cultivators to the Sub-deputy Agent or other district officer, shall, before it is forwarded to the Sudder Factory, be weighed, examined, and classified according to its quality and consistence by that officer, or his assistant, if duly authorised by the Agent in that behalf, in the presence of the cultivators and in conformity with rules sanctioned by the Board of Revenue. Any cultivator, who may be dissatisfied with the

Proceeding where cultivator is dissatisfied with classification.

classification of the district officer, shall be at liberty either to take his Opium to the Sudder Factory, or to have it forwarded thither by such officer separate from the Opium respecting which no dispute has arisen.

Weighing and examination of Opium at the Sudder Factory.

XIII. All Opium forwarded by the district officers to the Sudder Factory, and all Opium delivered at the Sudder Factory by the cultivators, shall be there weighed and examined by the Opium Examiner, or other officer duly authorised in that behalf, agreeably to rules sanctioned by the Board of Revenue; and the quality and consistence of the Opium, and the deductions from, or additions (if any) to the standard price to be made in accordance with the said rules, shall be determined by the result of such examination. The decision of the Examiner, or of the Agent in cases in which a reference to the Agent may be prescribed by the said rules, shall be final and conclusive, and not open to question in any Court.

Confiscation of adulterated Opium.

XIV. When Opium delivered by a cultivator, either to a district officer, or at the Sudder Factory, is suspected of being adulterated with any foreign substance, it shall be immediately sealed up pending examination by the Opium Examiner, and notice of such intended examination shall be given to the cutivator.

Adjudication of confiscation

If upon such examination the Opium shall be found to be so adulterated, the Agent, on the report of the Examiner, may order that it be confiscated: and the order of the Agent shall be final, and not open to question in any Court.

Weights and scales.

XV. The weights and scales made use of in the Sudder Factories, and at the District Kothees, shall be provided by the Board of Revenue. Every district officer shall annually, before beginning to weigh the Opium of the season, examine the weights and scales in use in his district, and shall report the result of such examination to the Agent. The Agent shall make a similar examination of the weights and scales of the Sudder Factory, and shall report the result to the Board. No weights or scales shall be made use of which on any such examination have not been found to be strictly accurate. It shall be the duty of all officers who may superintend the weighing of Opium, to see that the Opium is weighed fairly

with an even beam, and the practice of taking excess weight for the purpose of turning the scale, or as an allowance for dryage and wastage, is hereby prohibited.

Adjustment of cultivator's accounts, and recovery of balance by distress.

XVI. The accounts of the cultivators shall be adjusted annually by the district officers as soon after the conclusion of the weighing and examination as possible; and any balance that may remain due from any cultivator, or from any muhto or intermediate manager, may be recovered by the district officer by distress and sale of the property of the defaulter or of his surety, in the same manner and under the same rules as the property of defaulting cultivators in estates held khas may be distrained and sold by the Collector for the recovery of an arrear of rent or revenue.

Proviso.

Provided that no warrant of distress and sale shall be issued by any district officer without the sanction of the Agent previously obtained.

Penalty on Officer taking bribes.

XVII. Any officer of the Opium Department who shall receive any fee, gratuity, perquisite, or allowance, either in money or effects, under any pretence whatsoever, from any cultivator, or from any other person employed or concerned in the provision of Opium, other than the authorised allowances of his situation, shall be dismissed from his office, and, on conviction before a Magistrate, shall be liable to a fine not exceeding five hundred Rupees.

Sum illegally exacted by landholder from ryot on account of rent of Poppy land or illegal cess, may be recovered, together with a penalty, in summary suit before Collector.

XVIII. If any Zemindar, or other proprietor of land, or any farmer of land, shall exact from any ryot on account of his Poppy land, any illegal cess or any higher rate of rent than he is lawfully entitled to demand, the ryot, or the Sub-deputy Agent or other district officer on his behalf, may institute a suit before the Collector, and recover from such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent.

Penalty for embezzlement of Opium by cultivator.

XIX. Any cultivator entering into engagements for the cultivation of the Poppy on account of Government, who may embezzle, or otherwise ille-

gally dispose of, any part of the Opium produced, shall be liable to a penalty not exceeding ten times the fixed price of the Opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred Rupees, if the amount of the said penalty be less than that sum, and the Opium, if found, shall be liable to confiscation.

Penalty for illegal purchase of Opium from cultivator.

XX. Any person purchasing or receiving any Opium from a cultivator or other person who may have entered into engagements for the cultivation of the Poppy, or who may be employed in the provision of Opium on account of Government, or bargaining for the purchase of Opium with such cultivator, or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any Opium, and any officer of the Opium Department conniving in any way at the embezzlement or illegal disposal of any Opium, shall be liable to a fine not exceeding one thousand Rupees, unless the Opium purchased, bargained for, or illegally disposed of, shall exceed the weight of thirty-one seers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two rupees per seer, for all such Opium in excess of that weight; and the Opium, if found, shall be liable to confiscation.

And for illegal connivance by an Opium Officer at embezzlement.

Penalty for unlicensed cultivation.

XXI. Any person who shall cultivate the Poppy without license from a Sub-deputy Agent or officer duly authorised in that behalf, and any person who shall in any way cause, encourage, or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees, unless the quantity of land so illegally cultivated shall exceed twenty beegahs, in which case the fine may be at the rate of twenty-five rupees per beegah; and the Poppy plants shall be destroyed, or, if any Opium have been extracted from them, it shall be seized and confiscated. If the Opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty-two rupees per beegah of land illegally cultivated.

Duty of landholders and others to give information of illegal cultivation.

XXII. All proprietors, farmers, tahseeldars, gomashtahs, and other managers of land, shall give immediate information to the police or Abkaree Darogahs, or Opium Gomashtahs, or to the

Magistrates, Collectors or Officers in charge of the Abkaree Mehal, or to the Agents, their Deputies, or Sub-deputies of all Poppy which may be illegally cultivated within the estates or farms held or managed by them; and every proprietor, farmer, tahseeldar, gomashtah, or other manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding section.

Duty of Police and other officers to give information of illegal cultivation.

XXIII. All police and Abkaree Darogahs, and Opium Gamashtahs, and all native officers of Government of whatever description, and all chowkeydars, pykes, and other village police officer, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with Poppy; and such authority shall transmit the information to the Sub-deputy Agent, or other officer superintending the cultivation of the Poppy, if in a district where the Poppy is cultivated on account of Government, or to the Collector or officer in charge of the Abkaree Mehal, if in a district where the Poppy is not so cultivated. Every Police or Abkaree Darogah, Opium Gomashtah, native officer, chowkeydar, or other Police officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the Poppy, shall be liable to a fine not exceeding one thousand rupees if the offender be an officer of the Opium Department, or in any other case to a fine not exceeding five hundred rupees.

Police or Abkaree Darogah, how to proceed in case of illegal cultivation.

XXIV. Whenever a Police or Abkaree Darogah or Opium Gomashtah shall receive intelligence of any land within his jurisdiction having been illegally cultivated with Poppy, he shall immediately proceed to the spot, and if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the authority to which he may be subordinate. He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate; and in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

XXV. Proprietors, farmers, tahseeldars, Gomashtahs, and

Landholders, &c., may attach in cases of illegal cultivation.

other managers of land shall be at liberty to attach any Poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest Police or Abkaree Darogah, or Opium Gomashtah, who shall thereupon proceed in conformity with the rules contained in the last preceding section.

Adjudication of penalties.

XXVI. Except as otherwise herein provided, all fines, penalties, and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or Sub-deputy Agent in districts in which the Poppy is cultivated on account of Government, and in other districts on the information of the Collector or officer in charge of the Abkaree Mehal; provided, that no information of an offence against this Act shall be admitted, unless it be preferred within the period of one year after the commission of the offence to which the information refers.

Imprisonment in default of payment of fines under this Act.

XXVII. When any person is sentenced to pay any fine or penalty under this Act, such person, in default of payment of the same, may be imprisoned by order of the Magistrate for any time not exceeding six months, or until the fine is sooner paid.

Punishment for repetition of offences.

XXVIII. Whenever any person shall be convicted of an offence against this Act after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such an offence, to imprisonment for a period not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Place of imprisonment under the last Section.

XXIX. Every person who shall be imprisoned under the last preceding section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an Officer of Government or a village police office, convicted of an offence under Section XVII., XX., or XXIII., shall be imprisoned in the Civil Gaol.

Disposal of fines and forfeitures.

XXX. One-half of all fines and penalties levied from persons convicted of offences under Sections XIX., XX., and XXI., of this Act, together with a

reward of one rupee eight annas for each seer of Opium confiscated and declared by the Civil Surgeon to be fit for use, shall, upon adjudication of the case, be awarded to the officer or officers who apprehend the offender, and the other half of such fines and forfeitures, together with a reward of one rupee eight annas for each seer of Opium confiscated as aforesaid, shall be given to the informer. If in any case the fine or penalty is not realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred rupees, as may seem to them fit.

Governor General in Council may allow free cultivation of Poppy and manufacture of Opium in any District.

XXXI. The Governor General of India in Council may authorize, by an Order of Government, the cultivation of the Poppy and the manufacture of Opium in any district or districts without license from a Sub-Deputy Opium agent or other officer of Government; and when such order has been published, all the provisions of this Act shall cease to have effect in such district or districts. Provided always that the Government may prescribe rules for the delivery of the Opium so produced to officers of Government appointed to receive it; and when such rules have been passed, any cultivator or other person engaged in the cultivation of the Poppy and manufacture of Opium who shall dispose of any Opium otherwise than is allowed by such rules, and any person who shall purchase or receive any such Opium in contravention of the said rules, shall be subject to the penalties prescribed in Section XIX. of this Act; and such penalties may be adjudged by a Magistrate on the information of any officer of Government or of any other person.

Proviso.

MILITARY OR STATE OFFENCES.

Act No. XIV. of 1857.

[*Received the assent of the G. G. on the 6th June*, 1857.

Recites necessity of further provision for trial and punishment of State offences.

1. Imposes the penalty of death, transportation for life, or imprisonment for not more than 14 years, with forfeiture, for endeavouring to seduce, or to cause others to seduce, any officer or soldier from his allegiance.

2. Imposes fine and imprisonment for not more than 7 years for harbouring or concealing such offenders.

3. The Governor General in Council may empower every or any officer having the command of troops to appoint General Courts Martial, for trial of offences against this Act, or Act XI. of 1857.

4. Such General Courts Martial to be appointed by the Senior officer on the spot, and to consist of at least five Commissioned Officers, who may be either wholly or partly Europeans or Natives according to the direction of the Order in Council.

5. Sentence may be passed by the majority of the members, and may be confirmed and carried out immediately.

6. Governor General in Council, may countermand or alter any Order in Council.

7, 8. The Governor General in Council, or the Executive Government or any person authorized by the former may, even without proclamation, issue a Commission for the trial of persons charged with offences against the State or against person or property, and such Commission may be held in any part of the district named.

9. Such Court may pass final sentence, without the attendance of a Law Officer or Assessors.

10. Any officer having power to commit within the district named may commit for trial to such Court.

11, 12. British subjects exempt from the operation of this Act. As also persons subject to the Articles of War.

13. Interpretation of the word Soldier.

14. Act to be in force for one year.

An Act to make further provision for the trial and punishment of certain offences relating to the Army, and of offences against the State.

Continued by Act XXII. of 1858 to the end of 1859; and further continued by Act XXVII., 1859, to the end of 1860, when it expired.

SUPPRESSION OF THE PRESS.

Act No. XV. of 1857.

[*Received the assent of the G. G. on the 13th June,* 1857.

Recites expediency of prohibiting the use of Printing Presses in India except under suitable conditions, and with the previous sanction and license of Government.

1. Renders liable to 5,000 rupees fine, or two years' imprisonment, or both, any person keeping or using any Printing Press, types or other materials for Printing.

2. Empowers any Magistrate having reasonable ground of belief to issue a search-warrant for, or to seize and cause to be seized, any such printing Press, &c., and to dispose of the same as the Governor General, or the Executive Government, or any person authorised by the former, may direct.

3. Any person desirous of keeping a Press, &c., must apply in writing to the Magistrate and specify the name, profession and place of abode of the owner and person using the Press and the place of Printing, and must verify such application on oath, &c., under the penalties of perjury.

4. The Magistrate shall forward copy of such application to the Government or person authorised thereby, who may grant license subject to conditions and at any time revoke the same.

5. Imposes same penalties for use of a Press contrary to, or after revocation of license, as for keeping a Press without license.

6. All Books and Papers printed at a licensed Press to have printed on them the Printer's and Publisher's name, and the place of Printing and Publication, and copy to be sent to the Magistrate.

7. Empowers the Government to prohibit by order published in the "Gazette" the circulation of any particular newspaper, book, &c., and imposes forfeiture and fine or imprisonment or both for breach of such order.

8. Interpretation of the words "printing" and "Magistrate."

9. Act not to abrogate Act XL of 1857.

10. Prosecutions not to be instituted under the Act within 14 days after its passing, without sanction.

11. Act to be in force for one year.

An Act to Regulate the establishment of printing Presses and to restrain in certain cases the circulation of Printed books and papers.

Expired on the 12th of June, 1858.

HEINOUS OFFENCES.

Act No. XVI. of 1857.

[*Received the assent of the G. G. on the* 13*th June*, 1857.

Recites expediency of making temporary provision for punishment of heinous offences in certain districts.

1. Imposes forfeiture, together with death, transportation for life or imprisonment with hard labour for not more than 14 years, for the commission of any heinous offence in a place subject to martial Law.

2. Interprets the term "heinous offence."

3. Offenders may be tried either by the ordinary Courts or by Courts Martial or Commissioners appointed under Act XIV. of 1857.

4. An Act not to extend to British subjects.
5. Act to be in force for one year.

An Act to make temporary provision for the trial and punishment of heinous offences in certain districts.

Continued by Act XXII. of 1858 to end of 1859; and further continued by Act XXVII., 1859, until the end of 1860.

MUTINY AND DESERTION.

Act No. XVII. of 1857.

[*Received the assent of the G. G. on the 20th June*, 1857.

Recites expediency of making temporary provision for the apprehension and trial of mutineers and deserters.

1. Empowers Sessions judges and other authorised persons to try and to sentence—finally—to death, or transportation or imprisonment for life any persons subject to the Articles of War for the Native troops, and to carry out sentence of death immediately. On report of such officers, however, the Government may either pardon the offender or commute his sentence.

2. The Government may authorise the issue of a Commission for trial of Mutiny and desertion, and such Commissioner shall have all the powers above-mentioned.

3. Authorises the arrest of mutineers and deserters by any person and without warrant upon reasonable suspicion.

4. Mutineer or deserter to be conveyed without delay, after apprehension, before a Magistrate who may either commit him for trial to the commanding officer of a Military station or to some officer authorised under this Act, or if authorised himself, may try him.

5. Extends sections V. and VI., Act XI., 1856, to Native officers and soldiers.

6. Includes mutineers and deserters in the classes of offenders of whose resort to their estates, Zemindars, &c., under Regulation VI., 1810, are bound to give early intelligence.

7. Interprets the word "Magistrate."

8. Act to be in force for one year.

An Act to provide temporarily for the apprehension and trial of Native Officers and Soldiers for Mutiny and Desertion.

Continued by Act XXII. of 1858 to end of 1859; and further continued by Act XXVII., 1859, until the end of 1860.

THE NABOB OF THE CARNATIC.

ACT No. XVIII. OF 1857.

[*Received the assent of the G. G. on the 4th July*, 1857.

Recites decision of the Supreme Court at Madras that Act 1, 1844, was a personal Act, and expediency of suspending litigation under it until an opportunity for appealing to the Privy Council shall have been afforded.

1. No process to issue without the sanction of the Madras Government against the family or retinue of the late Nawab, for one year.

2. If the appeal be admitted, no such process to issue, without the sanction of the Madras Government or a special order of Court, until after the determination of the appeal.

3. Process to be void, if issued contrary to this Act.

An Act relating to the issuing of writs or process against certain members of the family, household, and retinue of His late Highness the Nabob of the Carnatic.

Preamble.

Whereas it has been decided by Her Majesty's Supreme Court of Judicature at Fort St. George that Act I. of 1844 was a personal Act, and that upon the death of his late Highness the Nabob of the Carnatic it ceased to have any effect; and whereas doubts are entertained as to the correctness of the decision, and it is desirable that the persons against whom any such decision has been given should have an opportunity of petitioning Her Majesty in Council for leave to appeal against the same, and that litigation should be prevented in the mean time, it is enacted as follows:

No process to issue against the family or retinue of the late Nabob of the Carnatic for one year, unless with the consent of the Governor in Council.

I. No writ or process shall, at any time within the period of one year from the time of the passing of this Act, be sued forth or prosecuted against the person, goods, or property of any person whose name was included in any list which was published under the provisions of the said Act, and which was in force and effect for the purpose of the said Act at the time of the death of his said late Highness the Nabob of the Carnatic, unless such writ or process shall be sued forth or prosecuted with the consent of the Governor in Council of Fort St. George first had and obtained, such consent to be testified by the signature of the Secretary or one of the Secretaries of Government.

II. If an appeal against any such decision as aforesaid be admitted by Her Majesty in Council, no such writ or process shall be sued forth or prosecuted against the person, goods, or effects of any person named in such list as aforesaid until after the determination of the appeal, unless such writ or process be sued forth or prosecuted with the consent of the said Governor in Council to be testified as aforesaid, or unless the Court out of which such writ or process shall be sued forth or prosecuted shall be satisfied that the appellant has been guilty of unreasonable delay in prosecuting the appeal, and shall make a special order authorising such writ or process to be sued forth and prosecuted.

If appeal to Queen in Council be admitted, no process to issue until after the determination of the appeal.

Unless with consent of Governor in Council.

Or unless by special order of Court.

III. Every writ or process sued forth or prosecuted contrary to the provisions of this Act shall be utterly null and void.

Process issued contrary to the Act to be void.

JOINT STOCK COMPANIES.

Act No. XIX. of 1857.

[*Received the assent of the G. G. on the* 10*th July*, 1857.

Recites expediency of amending the Law as to Joint Stock and other Companies, and of enabling the members thereof to limit their liabilities.

1. Corporations, except for Banking or Insurance purposes, with or without limited liability, may be formed by seven or more persons subscribing a Memorandum of Association and registering it.

2. Liability to be several and unlimited whenever the partnership shall consist of more than 20 persons, unless registered under this Act, or authorized by Act of Parliament or of the Legislature of India, or by Royal Charter or Letters Patent.

3. Regulates the contents of the Memorandum of Association.

4. Company not to be registered under a name identical with or very nearly resembling the name of another Company already registered; and any Company so registered shall change its name on requisition by the Registrar.

5. Regulates the form of the Memorandum and makes it, when registered, as binding as if it had been duly executed by each shareholder, and had contained a formal covenant to that effect.

6. Each shareholder to take at least one share, and the number of each shareholder's shares to be entered in the Memorandum and in the Register.

7. Articles of Association may be annexed to the Memorandum or endorsed on it, but in the absence of Articles, and so far as they do not extend, the Regulations contained in Table B are to be the Regulations of the Company.

8. Regulates the form and effect of the Articles of Association.

9. Signature of a printed copy of the Memorandum or Articles to be equivalent to signature of the original, but execution must be attested by at least one witness.

10. Directs that the Memorandum and Articles shall be registered, and directs what fees shall be paid.

11. On registration of Memorandum with or without Articles, the Registrar shall grant a Certificate of Incorporation, which shall be conclusive evidence that all requisitions of the Act as to registration have been complied with. The date of the Certificate shall be deemed the date of the incorporation, and if the Company is limited, the Certificate shall state that it is so.

12. If the Directors of the Company declare dividends unlawfully they shall be severally liable, to the extent of such dividend, for all the debts then existing or contracted during their continuance in office—except such as were absent at the time, or, being present and objecting, shall have filed and published notice of their objection.

13. On grant of certificate of incorporation, the Company may grant certificate of shares but not above the number or amount prescribed in the Memorandum: shares to be numbered and deemed personalty.

14. Prescribes the particulars to be entered on the Register of Shareholders.

15. Directs that a list shall be made once a year at least of all persons who on the 14th day after the first ordinary General Meeting where shareholders, and prescribes what particulars such list shall contain, and when and in what form it shall be made.

16. Imposes on the Company a fine of not more than 50 Rupees a day for default in keeping a Register and sending a copy thereof to the Registrar.

17. Trustees accepting shares and entered in the Register of Shareholders to be personally liable, and notice of trusts not to be entered.

18. Regulates form and mode of execution of transfers.

19. Certificate of shares to be *primâ facie* evidence of the title of the shareholder.

20. Unpaid calls to be a debt to the Company.

21. The Register and annual lists of shareholders to be open for inspection gratis to shareholders, and to others on payment of one rupee; and copy to be given on payment of two annas for every 100 words. A penalty of 50 rupees for each refusal of inspection or copy, and of 20 rupees more for every day it continues.

22. The Company may, after advertisement in a newspaper, close the Register of Shareholders for 21 days in each year.

23. In case of improper entry of a name, or of omission to enter, a petition for rectification of the Register may be presented to the principal Civil Court in the district.

24. The Register to be *primâ facie* evidence.

25. Every shareholder, on payment of one rupee fee, to receive a copy of the Memorandum and Articles.

26, 27. Impose on any Company not having a registered office a fine of 50 rupees a day.

28, 29. Direct publication of the Company's name in English and in the official language of the district at its office, on its seal, in all its official publications and in all its commercial documents, under a penalty of 50 rupees on the Company and 500 rupees on its officer for each offence.

30. A General Meeting to be held at least once a year.

31. Regulates the matters of which the Directors are to keep accounts.

32, 33. A Balance sheet in the form in Table B to be filed every year with the Registrar and signed by the Directors.

34. Dividends to be paid only out of profits.

35, 36, 37. Provide for Audit of the accounts—for appointment of auditors—and for inspection of the balance sheet and of the auditors' report by shareholders and the public.

38, 39, 40, 41. Empower the Company to alter the Articles by a special Resolution—define what shall be deemed a Special Resolution—and provide for the registry of such Resolutions and for the taking copies of them.

42. Imposes a fine on any Company neglecting to give notice to the Registrar of an increase of its capital.

43. Renders every Director, carrying on business when the number of shareholders is less than seven, personally and severally liable for the whole debts of the Company.

44. Directs what shall be evidence of proceedings at Meetings.

45. Regulates how contracts under seal, in writing, and verbal, are to be made.

46. Any Company may, by writing under seal, appoint an attorney to execute deeds for them.

47. Any authorised person may make, accept, or endorse Bills, Hoondees, &c., for the Company.

48. The Government may appoint inspectors on application of one-fifth of the shareholders.

49. Defines the powers of inspectors.

50. Inspectors to report to Government, and to forward copies of their report to the Company's office for general inspection, and to the applying shareholders.

51. The Company itself may by General Meeting appoint inspectors.

52. The inspector's report may be proved by a copy.

53, 54. Regulate the service of notices on the Company.

55. Notices, &c., of the Company may be authenticated by the signature of an authorised officer.

56. Offences under this Act may be prosecuted summarily, and penalties may be recovered according to the provisions of the Police Act.

57. Empowers the Governor General in Council to alter the forms prescribed in the schedule.

58, 59. Explain to what Companies the provisions relating to winding-up shall apply, and in what sense the term "the Court" shall be understood.

60. Defines the liability of existing shareholders in respect of the Company's debts.

61, 62. Define the liability of former shareholders in respect of the Company's debts—in limited and unlimited Companies respectively.

63. The commencement of the winding-up to date from the presentation of the petition or from the passing of the Resolution.

64, 65. Define the character and liabilittes of a "contributory" and regulate winding-up the rights of contributories among themselves.

66. Under what circumstances a Company may be wound-up by the Court.

67. When a Company shall be deemed unable to pay its debts.

68. An application for winding-up must be by petition accompanied by a declaration signed and verified.

69, 70. Direct what course the Court shall adopt on a creditor's petition.

71. what course to be pursued on the petition of a contributory.

72. Effect of the order for winding-up.

73. The Court to cause the due collection and application of assets.

74. Any fraudulent preference made within three months before the commencement of winding-up, to be void.

75. After order for winding-up, the Court may summon any person suspected to have property belonging to the Company, or to owe money to it, or to be capable by evidence or documents to elucidate its transactions.

76. Imposes imprisonment for not more than 2 years for fraudulent falsification of books, papers, &c.

77. Executions upon judgments voluntarily suffered within three months of petition filed and in fraudulent preference of a particular creditor, to be void.

78. The books of the Company to be *primâ facie* evidence of the truth of the matters therein recorded.

79. After order for winding-up, the Court may make calls on the contributories to the extent of their liability.

80. Regulates how such calls shall be recovered.

81. The Court may make calls upon former as well as upon existing shareholders.

82. With the exception of such balance as may be sanctioned for current expenses, all moneys received shall be paid into Court.

83. After petition presented, the Court may grant an injunction, appoint a receiver, or call on the creditors to present and prove their claims.

84. The Court may, on application, stay the proceedings for winding-up.

85. After satisfaction of creditors, the Court shall adjust the rights of contributories, and distribute the surplus.

86. The Court may order costs out of the estate.

87, 88, 89, 90. Regulate the appointment—style and duties—powers—and remuneration of official liquidators.

91, 92. After completion of the winding-up the Court shall declare the dissolution of the Company, and the Registrar shall make a minute accordingly in his books.

93. Circumstances under which a Company may be wound-up voluntarily.

94, 95. Manner and consequences of a voluntarily winding-up.

96. Voluntary winding-up not to prejudice a creditor's right to a winding-up by the Court.

97. Regulates the appointment, duties, place of office, and salaries of Registrars—the inspection of documents to be kept by them—and the person by whom their duties are to be performed pending their appointment.

98. Repeals Act XLIII. of 1850.

99. Permits the Registration of existing Companies on assent by three-fourths in number and value of the shareholders present at a General Meeting—provided they be not for Banking or Insurance purposes.

100. Prescribes certain requisites for the registration of existing Companies, whether registered under Act XLIII., 1850, or otherwise duly constituted by law.

101. The statements delivered by existing Companies to be verified by declaration of the Directors delivering them.

102. On compliance with the requisitions, the Registrar shall certify under his hand the Incorporation of the Company, and all the provisions of this Act shall then, with certain reservations, apply to it.

103. An existing Company may change its name.

104. The certificate to be conclusive evidence of compliance with the requisitions, and of the date of incorporation.

105. The rights of creditors not to be prejudiced by the registration under this Act or by any subsequent proceeding of an existing Company.

An Act for the incorporation and regulation of Joint Stock Companies and other Associations, either with or without limited liability of the members thereof.

Preamble.

Whereas it is expedient that the law relating to the incorporation and regulation of Joint Stock Companies and other Associations should be amended, and that the members of Joint Stock Companies and other Associations should be enabled to limit their liability for the debts and engagements thereof, it is enacted as follows:

PART I.

Constitution and Incorporation of Companies and Associations.

Registry

I. Seven or more persons, associated for any lawful purpose,

Company formed by Memorandum of Association and registration.

may, by subscribing their names to a Memorandum of Association, and otherwise complying with the requisitions of this Act in respect of registration, form themselves into an Incorporated Company, with or without limited liability. Provided that nothing in this Act shall authorise any persons to form themselves into a Joint Stock Company or Association, with limited liability, for the purpose of [Banking] or Insurance. [Repealed as respects Banking by Act VII., 1860, s. 1.]

Banking or Insurance Company not to be formed with limited liability.

II. Not more than twenty persons shall, after the First day of January 1858, carry on in partnership, in any part of the territories in the possession and under the Government of the East India Company, any trade or business having a gain for its object, unless they are registered as a Company under this Act, or are authorised so to carry on business by an Act of Parliament, or by Royal Charter or Letters Patent, or by an Act of the Governor General of India in Council; and if any persons carry on business in partnership contrary to this provision, every person so acting shall be severally liable for the payment of the whole debts of the partnership, and may be sued for the same without the joinder in the action or suit of any other members of the partnership.

Penalty on partnerships exceeding a certain number.

Matters required to be prescribed by Memorandum of Association.

III. The Memorandum of Association shall contain the following things (that is to say)—

1. The name of the proposed Company;

2. The part of the said territories in which the registered office of the Company is to be established;

3. The objects for which the proposed Company is to be established;

4. The liability of the shareholders, whether it is to be limited or unlimited;

5. The amount of the nominal capital of the proposed Company;

6. The number of shares into which such capital is to be divided, and the amount of each share.

In the case of a Company formed with limited liability, and hereinafter called a limited Company, the word "limited" shall be the last word in the name of the Company.

Prohibition against identity of names in registered Companies.

IV. No Company shall be registered under a name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to deceive; and if any Company, through inadvertence or otherwise, is registered by a name identical with that by which a subsisting Company is registered, or so nearly resembling the same as to be calculated to deceive, such first-mentioned Company may, with the sanction of the Registrar, and shall, if required by him so to do, change its name, and upon such change being made, the Registrar shall enter the new name on the Register in the place of the former name; but no such alteration of name shall affect any rights or obligations of the Company or of any member thereof, or render defective any legal proceedings instituted or to be instituted by or against the Company; and any legal proceedings may be continued or commenced against the Company by its new name, that might have been continued or commenced against the Company by its former name.

Form of Memorandum of Association.

V. The Memorandum of Association shall be in the form marked A in the schedule hereto, or as near thereto as circumstances admit; and it shall, when registered, bind the Company and the shareholders therein to the same extent as if each shareholder had subscribed his name and affixed his seal thereto, or otherwise duly executed the same, and there were in such Memorandum contained, on the part of himself, his heirs, executors, administrators, or representatives, a covenant to conform to all the regulations of such Memorandum, subject to the provisions of this Act.

Shares to be taken by subscribers of Memorandum of Association.

VI. Every subscriber of the Memorandum of Association shall take one share at the least in the Company; the number of shares taken by each subscriber shall be set opposite his name in such Memorandum of Association; and upon the incorporation of the Company, he shall be entered in the Register of Shareholders hereinafter mentioned as a shareholder to the extent of the shares he has taken.

Special regulations may be prescribed by Articles of Assiociation.

VII. The Memorandum of Association may be accompanied by, or have annexed thereto, or endorsed thereon, Articles of Association signed by

the subscribers to the Memorandum of Association, and prescribing regulations for the Company; but if no such regulations are prescribed, or so far as the same do not extend to modify the regulations contained in the Table marked B. in the schedule hereto, such last-mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the Company, and shall bind the Company and the Shareholders therein to the same extent as if they had been inserted in Articles of Association, and such Articles had been registered.

Form and effect of Articles of Association.

VIII. The Articles of Association shall be in the form marked C. in the schedule hereto, or as near thereto as circumstances admit; they shall, when registered, bind the Company and the Shareholders therein to the same extent as if each Shareholder had subscribed his name and affixed his seal thereto, or otherwise duly executed the same, and there were in such Articles contained, on the part of himself, his heirs, executors, administrators, or representatives, a covenant to conform to all the regulations of such Articles, subject to the provisions of this Act.

Use of printed copies of Memorandum or Articles.

Attestation of execution.

IX. Any person signing a printed copy of the Memorandum of Association, or Articles of Association, shall be deemed to have signed such Memorandum and Articles respectively. The execution by any person of the Memorandum of Association or Articles of Association shall be attested by one witness at the least.

Registration of Memorandum of Association and Articles of Association

X. The Memorandum of Association and Articles of Association shall be delivered to the Registrar of Joint Stock Companies, who shall retain and register the same; there shall be paid to the Registrar of Joint Stock Companies, in respect of the several matters mentioned in the Table marked D. in the schedule hereto, the several fees therein specified, or such smaller fees as the Governor General of India in Council may from time to time direct; and all fees so paid shall be accounted for to Government.

Effect of registration

XI. Upon any such Memorandum of Association, either with or without Articles of Association, as aforesaid, being registered, the Registrar shall certify under his hand that the Company is incorporated, and, in the

case of a limited Company, that the Company is limited, the subscribers of the Memorandum of Association, together with such other persons as may from time to time become Shareholders in the Company, shall thereupon be a body corporate by the name prescribed in the Memorandum of Association, having a perpetual succession and a common seal, with power to hold lands, but with such pecuniary liability on the part of the Shareholders as is hereinafter mentioned: the certificate of incorporation given by the Registrar shall be conclusive evidence that all the requisitions of this Act in respect of registration have been complied with; and the date of such certificate shall be deemed to be the date of the incorporation of the Company.

Directors to be liable for debts, if dividend be paid contrary to the provisions of the Act, or when the Company is known by them to be insolvent.

XII. If the Directors of any such Company shall declare and pay any dividend contrary to the provisions of this Act, or when the Company is known by them to be insolvent, or any dividend the payment of which would, to their knowledge, render it insolvent, they shall be jointly and severally liable for all the debts of the Company then existing, and for all that shall be thereafter contracted, so long as they shall respectively continue in office; provided always, that the amount for which they shall all be so liable shall not exceed the amount of such dividend, and that, if any of the Directors shall be absent at the time of making the dividend or dividends so declared or paid, or if present and objecting thereto shall file their objection in writing with the Clerk of the Company, and shall forthwith publish notice of such objection in the Official "Gazette" or in some Newspaper circulating in the place in which the registered office of the Company is situate, they shall be exempted from the said liability.

Proviso.

Issue of Shares by Company.

XIII. As soon as a certificate of incorporation has been granted by the Registrar of Joint Stock Companies, the Company may issue certificates of shares to the subscribers to the Memorandum of Association, and to all other persons to whom shares may be allotted, of such number and amount as may be prescribed by the Memorandum of Association, but not of any greater number or amount: the shares so issued shall be personal estate, and shall

not be of the nature of real estate, and each share shall be distinguished by its appropriate number.

Register of Shareholders.

XIV. Every Company registered under this Act, hereinafter referred to as "the Company," shall cause to be kept in one or more books a Register of Shareholders, and there shall be entered therein the following particulars:—

1. The names, addresses, and occupations, if any, of the shareholders in the Company, and the shares held by each of them, distinguishing each share by its number;

2. The amount paid on the shares of each shareholder;

3. The date at which the name of any person was entered in the Register as a shareholder;

4. The date at which any person ceased to be a shareholder in respect of any share.

Annual list of Shareholders on Register.

XV. Once at the least in every year a list shall be made of all persons who, on the fourteenth day succeeding the day on which the ordinary general meeting of the Company, or, if there is more than one ordinary meeting in each year, the first of such ordinary general meetings is held, are holders of shares in the Company; and such list shall state the names, addresses, and occupations of all the persons therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars:

1. The amount of the nominal capital of the Company, and the number of shares into which it is divided;

2. The number of shares taken from the commencement of the Company up to the date of the summary;

3. The amount of calls made on each share;

4. The total amount of calls that have been received;

5. The total amount of calls unpaid;

6. The total amount of shares forfeited.

The above list and summary shall be contained in a separate part of the Register, and shall be in the form marked E. in the schedule hereto, or as near thereto as circumstances admit: such list and summary shall be completed within seven days after such fourteenth day as is mentioned in this section, and a copy thereof, authenticated by the seal of the Company, shall forthwith be forwarded to the Registrar; and any person may inspect and

take copies of the same, subject to the regulations under which a person is hereinafter declared to be entitled to inspect and take copies of any documents kept by the Registrar.

Penalty on Company not keeping a proper Register.

XVI. If any Company registered under this Act makes default in keeping a Register of Shareholders, or in sending a copy of such list and summary as aforesaid to the Registrar, in compliance with the foregoing rules, such Company shall incur a penalty not exceeding fifty rupees for every day during which such default continues.

Respective definition of Shareholder.

XVII. No notice of any trust, expressed or implied or constructive, shall be entered on the Register or be receivable by the Company; and every person who has accepted any share in a Company registered under this Act, and whose name is entered in the Register of shareholders, and no other person (except a subscriber to the Memorandum of Association in respect of the shares subscribed for by him), shall, for the purposes of this Act, be deemed to be a shareholder.

Transfer of Shares.

XVIII. The transfer of any share in the Company shall be in the form marked F. in the schedule hereto, or to the like effect, and shall be executed both by the transferror and transferee; the transferror shall be deemed to remain a holder of such share until the name of the transferree is entered in the Register-book in respect thereof.

Certificate of shares.

XIX. A certificate, under the common seal of the Company, specifying any share or shares held by any shareholder, shall be *primâ facie* evidence of the title of the shareholder to the share or shares therein specified.

Calls a debt to Company.

XX. The amount of calls, for the time being unpaid on any share, shall be deemed to be a debt due from the holder of such share to the Company.

Inspection of Register and annual list of shareholders.

XXI. The Register and annual list of shareholders commencing from the incorporation of the Company, shall be kept at the registered office of the Company hereinafter mentioned; except when the Register is closed as hereinafter mentioned, such Register and annual list shall, during business hours, but subject to such reasonable restrictions as the Company in general meeting

may impose, so that not less than two hours in each day be appointed for inspection, to be opened to the inspection of any shareholder gratis, and to the inspection of any other person on the payment of one rupee, or such less sum as the Company may prescribe for each inspection; and every such shareholder or other person may require a copy of such Register and annual list, or of any part thereof, on payment of two annas for every one hundred words required to be copied; if such inspection or copy is refused, the Company shall incur for each refusal a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues.

Power to close Register.

XXII. The Company may, upon giving notice by advertisement in some newspaper circulating in that part of the said territories in which the registered office of the Company is situate, close the Register of Shareholders for any time or times not exceeding on the whole twenty-one days in each year; and the period during which the books, are closed, shall not be reckoned as part of the time within which a transfer is to be registered.

Remedy for improper entry, or omission of entry in Register.

XXIII. If the name of any person is without sufficient cause entered or omitted to be entered in the Register of Shareholders of any Company, such person, or any shareholder of the Company, may, by petition to the principal Court of original Civil jurisdiction in the district or place in which the registered office of the Company is situate, apply to such Court for an order that the Register may be rectified; and the Court may either refuse such application, with or without costs to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the Register, and may direct the Company to pay all the costs of such motion or petition, and any damages the party aggrieved may have sustained; and if the Company makes default or is guilty of unnecessary delay in registering any transfer of shares, they shall be responsible to any person injured by such default or delay for the amount of damage he may thereby have sustained.

Register to be evidence.

XXIV. The Register of Shareholders shall be *primâ facie* evidence of any matters by this Act directed or authorised to be inserted therein.

Copies of Memorandum and Articles of Association to be forwarded to Shareholders.

XXV. Copies of the Memorandum of Association and Articles of Association shall be forwarded by the Company to every Shareholder, at his request, on payment of the sum of one rupee for each copy, or such less sum as may be prescribed by the Company.

PART II.

Management and Administration of Companies.

General.

Registered office of Company.

XXVI. The Company shall have registered office to which all communications and notices may be addressed; if any Company registered under this Act carries on business without having such an office, it shall incur a penalty not exceeding fifty rupees for every day during which business is so carried on.

Notice of situation of registered office.

XXVII. Notice of situation of such registered office, and of any change therein, shall be given to the Registrar of Joint Stock Companies, and recorded by him; until such notice is given, the Company shall not be deemed to have complied with the provisions of this Act with respect to having a registered office.

Publication of name by a Limited Company.

XXVIII. Every Limited Company registered under this Act shall paint or affix, and shall keep painted or affixed, its name on the outside of every office or place in which the business of the Company is carried on, in a conspicuous position, in letters easily legible in the English language and also in the language required to be used in judicial proceedings in the Court of the East India Company in the district in which the registered office is situate, and shall have its name engraven in legible characters in such languages on its seal, and shall have its name mentioned in legible characters in such languages in all notices, advertisements, and other official publications of such Company, and in all Bills of Exchange, Hoondees, Promissory Notes, Endorsements, Cheques, and orders for money or goods, purporting to be signed by or on behalf of such Company, and in all bills of parcels, invoices, receipts and letters of credit of the Company.

XXIX. If any Limited Company registered under this Act does not paint or affix, and keep painted or affixed, its name in manner aforesaid, it shall be liable to a penalty not exceeding Fifty Rupees for not so painting or affixing its name, and for every day during which such name is not so kept painted or affixed; and if any officer of such Company, or any person on its behalf, uses any seal purporting to be a seal of the Company whereon its name is not so engraven as aforesaid, or issues or authorises the issue of any notice, advertisement, or other official publication of such Company, or signs or authorises to be signed on behalf of such Company any Bill of Exchange, Hoondee, Promissory Note, Endorsement, Cheque, Order for money or goods, or issues or authorises to be issued, any bill of parcels, invoice, recei or letter of credit of the Company, wherein its name mentioned in manner aforesaid, he shall be liable to a penalty of Five hundred Rupees, and shall further be personally liable to the holder of any such Bill of Exchange, Hoondee, Promissory Note, Cheque, or Order for money or goods, for the amount thereof, unless the same is duly paid by the Company.

Penalties on non-publication of name.

XXX. A general meeting of the Company shall be held once at the least in every year.

General meeting of Company.

XXXI. The Directors shall cause true accounts to be kept—

What accounts to be kept.

Of the Stock-in-trade of the Company;

Of the sums of money received and expended by the Company, and the matter in respect of which such receipt and expenditure takes place; and

Of the credits and liabilities of the Company.

XXXII. A balance-sheet shall be made out and filed with the Registrar of Joint Stock Companies within twelve months after the incorporation of the Company, and once at least in every year afterwards within twelve months from the filing of the balance-sheet immediately preceding. Such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to Table B. in the schedule hereto, or as near thereto as circumstances admit.

Balance-sheet to be made out annually and filed with the Registrar.

Form of balance-sheet.

Balance-sheet to be signed and certified by the Directors.

XXXIII. The balance-sheet shall be signed by the Directors or any three or more of them, who shall certify at the foot thereof that the same, to the best of their belief, contains a true account of the capital and liabilities and of the property and assets of the Company.

No dividend payable except out of profits.

XXXIV. No dividend shall be payable except out of the profits arising from the business of the Company including interest on capital.

Audit.

XXXV. The accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained, by one or more auditor or auditors, who shall certify, at the foot of such balance-sheet, that the same, to the best of their belief, contains a true account of the capital and liabilities and of the property and assets of the Company, or make such special report thereon as they think necessary.

Inspection of balance-sheet and report of auditors thereon.

XXXVI. A copy of every balance-sheet and of the report thereon by the auditors shall be kept at the registered office of the Company, and shall be open to inspection in the same manner as the Register of Shareholders kept at such office.

Appointment of auditors.

XXXVII. Unless other provisions shall be contained in the regulations of the Company for the appointment of auditors, the auditors shall be appointed at the first general meeting of the Company in every year, and, in the case of any casual vacancy occurring in such office, at an extraordinary general meeting called for the purpose of supplying the same. No Director or other officer shall be eligible as an auditor.

Power of Company to alter regulations by special resolution.

XXXVIII. Any Company registered under this Act may in general meeting, from time to time, by such special resolution as is hereinafter mentioned, alter and make new provisions in lieu of or in addition to any regulation of the Company contained in the Articles of Association or the table marked B in the schedule.

Definition of special resolution.

XXXIX. A resolution shall be deemed to be a special resolution of the Company whenever the same has been passed by three-fourths in number and value of such shareholders of the Company, for the time being

entitled to vote, as may be present in person or by proxy (in cases where, by the regulations of the Company, proxies are allowed) at any meeting of which notice specifying the intention to propose such resolution has been duly given, and such resolution has been confirmed by a majority of such shareholders, for the time being entitled to vote, as may be present in person or by proxy at a subsequent meeting of which notice specifying the intention to propose such confirmation has been duly given, and held at an interval of not less than one month, nor more than three months, from the date of the meeting at which such special resolution was first passed: unless a poll is demanded by at least five shareholders, a declaration of the Chairman of any such meeting as is mentioned in this section, that a special resolution has been carried or confirmed, shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favor of or against the same; notice of any meeting shall, for the purposes of this section, be deemed to be duly given, and the meeting to be duly held, whenever such notice is given and meeting held in manner prescribed by the regulations of the Company.

Registry of special resolution.

XL. A copy of any special resolution that is passed by any Company registered under this Act shall be forwarded to the Registrar of Joint Stock Companies, and recorded by him; if such copy is not so forwarded within fifteen days from the date of the passing of the resolution, the Company shall incur a penalty not exceeding twenty Rupees for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded.

Copies of special resolution.

XLI. A copy of any special resolution shall be given to any Shareholder on payment of one Rupee or of such less sum as the Company may direct.

Notice to Registrar of increase of capital.

XLII. The Company, if authorised so to do by its regulations, may increase its nominal capital in manner directed by such regulations, but notice of any increase so made shall be given to the Registrar of Joint Stock Companies within fifteen days from the date of the passing of the resolution by which such increase has been authorised, and the Registrar shall forthwith record the amount of such increase; if such notice is not given within the period aforesaid,

the Company shall incur a penalty not exceeding fifty Rupees for every day during which such neglect to give notice continues.

Prohibition against carrying on business with less than seven Shareholders.

XLIII. If any Company registered under this Act carries on business when the number of its Shareholders is less than seven, for a period of six months after the number has been so reduced, then every Director of such Company, during the time that it so carries on business after such period of six months; shall be severally liable for the payment of the whole debts of the Company contracted during such time, and may be sued for the same without the joinder in the action or suit of any other person.

Evidence of proceedings of Meetings.

XLIV. The Company shall cause minutes of all resolutions and proceedings of general meetings of the Company to be duly entered in books to be from time to time provided for the purpose, and any such minute as aforesaid, if signed by any person purporting to be the Chairman of such meeting, shall be receivable in evidence in all legal proceedings; and, until the contrary is proved, every general meeting, in respect of the proceedings of which minutes have been so made, shall be deemed to have been duly held and convened.

Legal Instruments of Company.

Contracts, how made.

XLV. Contracts on behalf of any Company registered under this Act may be made as follows (that is to say):—

1. Any contract which, if made between private persons, would be by law required to be in writing, and if made according to English law to be under seal, may be made on behalf of the Company in writing under the common seal of the Company; and such contract may be in the same manner varied or discharged.

2. Any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith, may be made on behalf of the Company in writing signed by any person acting under the express or implied authority of the Company; and such contract may in the same manner be varied or discharged.

3. Any contract which, if made between private persons,

would by law be valid although made verbally only, and not reduced into writing, may be made verbally on behalf of the Company by any person acting under the express or implied authority of the Company: and such contract may in the same way be varied or discharged.

And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Company and their successors, and all other parties thereto, their heirs, executors, or administrators, as the case may be.

Deeds.

Execution of Deeds.

XLVI. Any Company registered under this Act may, by instrument or writing under their common seal, empower any person, either generally or in respect of any specified matters, as their attorney, to execute deeds on their behalf in any place; and every deed signed by such attorney, on behalf of the Company, and under his seal, shall be binding on the Company to the same extent as if it were under the common seal of the Company.

Promissory Notes, Bills of Exchange, and Hoondees.

XLVII. A Promissory Note, Bill of Exchange, or Hoondee shall be deemed to have been made, accepted, or endorsed on behalf of any Company registered under this Act, if made, accepted, or endorsed in the name of the Company by any person acting under the express or implied authority of the Company.

Examination of affairs of Company.

Examination of affairs of Company by inspectors appointed by the Local Government.

XLVIII. Upon the application of one-fifth in number and value of the Shareholders of any Company registered under this Act, the Local Government may appoint one or more competent inspectors to examine into the affairs of the Company, and to report thereon in such manner as the Local Government directs.

Power of Inspectors.

XLIX. It shall be the duty of all officers and agents of the Company to produce, for the examination of the inspectors, all books and documents in their custody or power: any inspector may examine the officers and agents of the Company in relation to its business, and may,

if he thinks fit, administer an oath or affirmation to such person; if any officer or agent refuses to produce any such book or document, or to answer any question relating to the affairs of the Company, he shall incur a penalty not exceeding fifty rupees in respect of each offence.

Result of examination, how dealt with.

L. Upon the conclusion of the examination, the inspectors shall report their opinion to the Local Government; a copy shall be forwarded to the registered office of the Company, and shall be open to the inspection of any shareholder who shall be at liberty to take a copy thereof; and a further copy shall, at the request of the shareholders upon whose application the inspection was made, be delivered to them or any one or more of them: all expenses of and incidental to any such examination as aforesaid shall be defrayed by the shareholders upon whose application the inspectors were appointed.

Power of Company to appoint Inspectors.

LI. Any Company registered under this Act may in general meeting appoint inspectors for the purpose of examining into the affairs of the Company; the inspectors so appointed shall have the same powers and perform the same duties as inspectors appointed by the Local Government, with this exception that, instead of making their report to the Local Government, they shall make the same in such manner and to such persons as the Company in general meeting directs; and the officers and agents of the Company shall incur the same penalties, in case of any refusal to produce any book or document to such inspectors, or to answer any question, as they would have incurred if such inspectors had been appointed by the Local Government.

A copy of the report of inspectors to be evidence of the report.

LII. A copy of the report of any inspectors appointed under this Act, authenticated by the seal of the Company into whose affairs they have made inspection, shall without further proof be admissible as evidence of the report in any legal proceeding.

Notices.

Services of notices on Company.

LIII. Any summons or notice requiring to be served upon the Company may, except in cases were a particular mode of service is directed, be

served by leaving the same or sending it through the post by a registered letter addressed to the Company at their registered office, or by giving it to any Director, Secretary, or other principal officer of the Company; and any notice to the Registrar of Joint Stock Companies may be served by sending it to him through the post by a registered letter, or by delivering it to him, or by leaving it for him at his office.

Rules as to notices by letter.

LIV. Notices by letter shall be posted in such time as to admit of the letter being delivered in the due course of delivery within the period (if any) prescribed for the giving of such notice; and in proving such service it shall be sufficient to prove that such notice was properly directed, and that it was put into the Post Office at such time as aforesaid.

Authentication of notices of Company.

LV. Any summons, notice, writ, or proceeding requiring authentication by the Company may be signed by any Director, Secretary, or other authorized officer of the Company, and need not be under the Common Seal of the Company; and the same may be in writing or in print, or partly in writing and partly in print.

Adjudication of offences and recovery of penalties.

LVI. All offences under this Act made punishable by any penalty, may be prosecuted summarily before a Magistrate or any person exercising the powers of a Magistrate. The provisions of Act XIII. of 1856, relating to the adjudication of fines and penalties and the enforcing payment thereof, shall apply to penalties imposed under this Act in the Towns of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Alteration of forms.

Governor General of India in Council may alter forms in schedule.

LVII. The Governor General of India in Council may from time to time make such alterations in the forms and tables contained in the schedule hereto as may be deemed requisite: any form or table, when altered, shall be published in the "Calcutta Gazette," and, after the expiration of one month from the date of such publication, shall have the same force as if it were included in the schedule to this Act.

PART III.

WINDING-UP.

Preliminary.

Application of Part III. of Act.

LVIII. The provisions of this Act relating to the winding-up of Companies shall apply to all Companies registered under this Act, and to all Companies registered under Act XLIII. of 1850, or duly constituted by law previously to the passing of this Act, from and after the date at which they have obtained registration under this Act in manner hereinafter mentioned, but not to any other Companies.

Definition of "the Court."

LIX. The expression "the Court," as used in the Third Part of this Act, shall mean the principal Court having original civil jurisdiction in the place in which the registered office of the Company is situate, unless in the regulations for the management of the Company it shall be stipulated that the said Company if wound-up shall be wound-up by the Supreme Court of Judicature for the Presidency in which the registered office of the Company is situate, or if the registered office is not situate within any Presidency, or in the Settlement of Prince of Wales' Island, Singapore, and Malacca, that it shall be wound-up by such Supreme Court as shall be stipulated by such regulations, in either of which cases the word "Court" shall mean the Supreme Court of Judicature mentioned in such stipulation.

Liability of present shareholders in respect of debts.

LX. In the event of any Company being wound-up by the Court or voluntarily, the existing shareholders shall be liable to contribute to the assets of the Company to an amount sufficient to pay the debts and liabilities of the Company, and the costs, charges, and expenses of winding-up the same, with this qualification, that, if the Company is limited, no contribution shall be required from any shareholder exceeding the amount, if any, unpaid on the shares held by him.

Liability of former shareholders in a Company other than a limited Company with respect to debts.

LXI. In the event of any Company other than a limited Company being wound-up by the Court, any person who has ceased to be a shareholder within the period of three years prior to the commencement of the winding-up shall be liable to

contribute, in respect of the shares held by him within that period, towards payment of the debts and liabilities of the Company, and the costs, charges, and expenses of winding-up the same, and shall have in all respects the same rights, and be subject to the same liabilities to creditors in respect of such shares, as if he had not so ceased to be a shareholder, with this exception, that he shall not be liable in respect of any debt or liability of the Company contracted after the time at which he ceased to be a shareholder.

Liability of former shareholders in a limited Company with respect to debts and liabilities.

LXII. In the event of any limited Company being wound-up by the Court, any person who has ceased to be a holder of any share or shares within the period of one year prior to the commencement of the winding-up shall be liable in respect of such share or shares to contribute towards payment of the debts and liabilities of the Company, and the costs, charges and expenses of winding-up the same, and shall have in all respects the same rights and be subject to the same liabilities to creditors in respect of such share or shares as if he had not so ceased to be a shareholder.

Commencement of winding-up of Company defined.

LXIII. The winding-up shall, if the Company is wound-up by the Court, be deemed to commence at the time of the presentation of such petition as is hereinafter required to be presented to the Court; and, if the Company is wound-up voluntarily, be deemed to commence at the time of the passing of the resolution authorising such winding-up.

Definition of "contributory," and legal character of his liability.

LXIV. Any existing or former shareholder upon whom calls are authorised to be made by the Third Part of this Act is hereinafter called a "contributory;" and the representatives of any deceased contributory shall be liable in a due course of administration to the same extent as such contributory would be liable under this Act, if alive.

Rights of contributories between themselves.

LXV. For the purpose of ascertaining the liability of existing and former shareholders as between themselves, the following rule shall be adopted in the absence of any express contract to the contrary (that is to say):—

1. In the case of a Company other than a limited Company, every transferee of shares shall, in a degree proportioned to the shares transferred, indemnify the transferror against all existing and future debts of the Company.

2. In the case of a limited Company, every transferree shall indemify the transferror against all calls made or accrued due on the shares transferred subsequently to the transfer.

Winding-up by Court.

Circumstances under which Company may be wound-up by Court.

LXVI. A Company may be wound-up by the Court under the following circumstances (that is to say):—

1. Whenever the Company in general meeting has passed a special resolution requiring the Company to be wound-up by the Court;

2. Whenever the Company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year;

3. Whenever the shareholders are reduced in number to less than seven;

4. Whenever the Company is unable to pay its debts;

5. Whenever three-fourths of the capital of the Company have been lost or become unavailable.

Company, when to be deemed unable to pay its debts.

LXVII. A Company shall be deemed to be unable to pay its debts—

1. Whenever a creditor, to whom the Company is indebted in a sum exceeding five hundred rupees then due, has served on the Company, by leaving or causing to be left at their registered office, a demand under his hand requiring the Company to pay the sum so due, and the Company have for the space of three weeks succeeding the service of such demand, neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor;

2. Whenever satisfaction of a judgment, decree, or order of any Court in favor of any creditor in any suit or other legal proceeding cannot be obtained.

Application for winding-up to be by petition.

LXVIII. Any application for the winding-up of a Company shall be by petition, accompanied by a declaration signed by the petitioner, stating

that he verily believes the same to be true; such petition may, in cases where the Company is unable to pay its debts, be presented either by a creditor or a contributory; but where any other ground is alleged for winding-up the Company, a contributory alone is entitled to present the petition.

Course to be pursued by Court on petition of a Creditor.

LXIX. Upon the hearing of any petition presented by a creditor, the Court may dismiss such petition, with or without costs to be paid by the petitioner, or it may make an order directing the Company by a day to be named in the order, to pay or secure payment to the creditor of all moneys that may be proved due to him, together with such costs as the Court may direct; or the Court may, if it so thinks fit, on the hearing of such petition, make an order or decree for winding-up the Company in the first instance, or such other order as it deems just.

Order for winding-up Company on creditor's petition.

LXX. If, at the expiration of the time named in such order, such payment is not made, or security given, the Court may thereupon make an order or decree for winding-up the Company.

Course to be pursued by Court on petition of contributory.

LXXI. Upon the hearing of a petition presented by a contributory, the Court may dismiss such petition with or without costs to be paid by the petitioner, or it may make an order or decree directing the Company to be wound-up, or such other order or decree as it deems just.

Effect of the order for winding-up Company.

LXXII. After the date of such order or decree for winding-up the Company, all suits and actions against the Company shall, if the Court so orders, be stayed: no Director or other officer of the Company shall without the sanction of the Court, dispose of any of the property, effects, or things in action of the Company; and no transfer of any shares shall be valid without the sanction of the Court; a copy of such order or decree shall forthwith be reported by the Company to the Registrar of Joint Stock Companies, who shall make a minute thereof in his books relating to the Company.

Collection and application of assets.

LXXIII. As soon as may be after making an order or decree for winding-up the Company, the Court shall cause the assets of the Company to be

collected, and applied in discharge of its liabilities, in a due course of administration.

Fraudulent preference.

LXXIV. Any conveyance, mortgage, delivery of goods, payment, or other act relating to property, if made, done, or suffered voluntarily by any Company registered under this Act whilst in insolvent circumstances, with a view to give any undue or fraudulent preference to any creditor of such Company, shall be void if made, done, or suffered within three months before the commencement of the winding-up of such Company.

Power of Court to summon persons suspected of having property of Company.

LXXV. After an order or decree for winding-up the Company has been made, any person known or suspected to have in his possession any of the estate or effects of the Company, or supposed to be indebted to the Company, and any person whom the Court may deem capable of giving information concerning the trade, dealings, estate, or effects, of the Company, may be compelled to give evidence, and to produce any books, papers, deeds, writings, or other documents in his custody or power, which may appear to the Court requisite to the full disclosure of any of the matters which the Court thinks necessary to be enquired into for the purpose of winding-up the Company: in the same manner as a witness may be compelled to give evidence and to produce documents in any action or suit depending in such Court.

Penalty on falsification of books.

LXXVI. If any Director, officer, or contributory of any Company registered under this Act, destroys, mutilates, alters, or falsifies any books, papers, writings, or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account, or other document belonging to the Company, with intent to defraud the creditors or contributories of such Company or any of them, or any other person, every person so offending shall, upon conviction, be liable to imprisonment, with or without hard labor, for any term not exceeding two years.

Executions upon certain judgments within three months of petition to be void.

LXXVII. If, upon any judgment or decree voluntarily suffered by any Company being insolvent to any person with intent to give such person a preference over other creditors of the Company, any attachment, sequestration, or execution is issued

against such Company by virtue whereof the estate and effects of the Company, or any of them, are attached, sequestrated, or taken in execution, at any time within three months next before the filing or presentation of the petition for winding-up the Company, such attachment, sequestration, or taking in execution shall be void in favor of the liquidators of the Company, as against the attaching, sequestrating, or execution creditor, whether the same has been completely executed or not, except that such creditor shall, if the attachment, sequestration, or execution would have been valid but for this provision, be entitled to retain, out of any money already realised, his cost of suit, and of the attachment, sequestration or execution, or to proceed with the attachment, sequestration, or execution for the purpose of realising such costs; but on satisfaction of such costs, or on tender of the amount thereof by the liquidators to the creditor, it shall be lawful for the liquidators to recover from such creditor the property so attached, sequestrated, and taken in execution, and the proceeds of such property, or the residue thereof, as the case may be.

Books of Company to be evidence.

LXXVIII. All books, accounts and documents of the Company, and of the liquidators hereinafter mentioned, shall, as between the contributories of the Company, be *primâ facie* evidence of the truth of all matters therein contained, and purporting to be therein recorded.

Power of Court to make Calls.

LXXIX. The Court may, at any time after making an order or decree for winding-up a Company, and either before or after it has ascertained the sufficiency of the assets of the Company, or the debts in respect of which the several classes of contributories are liable, make calls on all or any of the contributories, to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the Company and the costs of winding it up; and it may, in making a call, take into consideration the probability that some contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same; and every such call shall be deemed a debt due to the Company.

Recovery of Calls.

LXXX. Upon such calls being made, the official liquidator or liquidators shall proceed immediately to collect the same, and shall monthly or oftener

report to the said Court the names of defaulters, together with the amounts remaining unpaid of the calls made upon them respectively, and thereupon the said Court shall order the payment of such calls, or any of them, within such time or times, and upon such notice or demand, by advertisements or otherwise, as the said Court may think fit; and in case any contributory, whether subject to the ordinary Civil jurisdiction of the Court or not, shall neglect to pay any part of the call within the time fixed by the Court for the payment thereof, and shall not within such time show to the Court sufficient cause for the non-payment thereof, the said Court may make an order upon such contributory for the payment of the amount due upon the call, and such order shall have the force and effect of a decree or judgment of the Court, and may be executed accordingly, and all the provisions of Acts XXXIII. of 1852, and XXXIV. of 1855, shall apply to the execution thereof.

Calls may be made upon former shareholders in respect of shares.

LXXXI. The Court may at any time make calls upon any former holder of a share who is liable under Section LXI. or LXII. of this Act in respect of such share as well as upon the existing holder of that share; but any payment made or obtained from any contributory in respect of a share shall operate for the benefit of every other contributory in respect of such share.

Payment of money into Court.

LXXXII. All moneys received under the direction of the Court on account of the sale or conversion of any of the assets of the Company, or in respect of calls made on any contributories, or of any other matter, with the exception of such balance (if any) as the official liquidators may, with the sanction of the Court, retain in their hands for the payment of current expenses, shall be paid into Court or deposited in such manner as the Court may direct; and no money standing to such account shall be paid out except upon cheques signed in such manner as the Court directs.

Power of Court to grant injunction.

LXXXIII. The Court may, at any time after the presentation of a petition for winding-up a Company, and either before or after making an order for winding-up the same, upon the application of any creditor or contributory of such Company, restrain further proceedings in any action or suit against the Company, or appoint a receiver

of the estate and effects of the Company; it may also, by notice or advertisement, require all creditors to present and prove their claims within a certain time, or be precluded from the benefit of any distribution which may be made before such claim is proved.

Power of Court to stay proceedings.

LXXXIV. The Court may, at any time after an order has been made for winding-up a Company, upon the application of any creditor or contributory of the Company, and upon proof to the satisfaction of the Court that all proceedings in relation to such winding-up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

Power of Court to adjust rights of contributories.

LXXXV. As soon as the creditors are satisfied, the Court shall proceed to adjust the rights of the contributories amongst themselves, and to distribute any surplus that may remain amongst the parties entitled thereto; and for the purposes of such adjustment it may make calls on the contributories to the extent of their liability for payment of such sums as it deems necessary; and it may in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same. Nothing in this section shall preclude any former Shareholder entitled to indemnity under section LXV. of this Act from enforcing such indemnity by due course of law.

Power of Court to order costs.

LXXXVI. The Court may make such order as to the priority and payment out of the estate of the Company of the costs, charges, and expenses incurred in winding-up any Company as it thinks just.

Official Liquidators.

Appointment of official liquidators.

LXXXVII. For the purpose of conducting the proceedings in winding-up a Company, and assisting the Court therein, there shall be appointed a person or persons to be called an official liquidator or official liquidators; and such appointment shall be made as follows (that is to say):—

The Court having jurisdiction may, after requiring due security, appoint such persons or person, either provisionally or otherwise, as it thinks fit, to the office of official liquidators; it may

from time to time remove any person or persons so appointed, and fill up any vacancy occasioned by such removal or by the death or resignation of any such appointee or appointees; if one person only is appointed, he shall have all the powers hereby given to several liquidators; if more persons than one are appointed, the Court shall declare whether any act hereby required or authorised to be done by the official liquidators may be done by all or any one or more of such persons.

In cases where the winding-up takes place at the suit of a creditor, it shall be lawful for the major part in value of the creditors assembled at a meeting to be held for the purpose, and, in cases where the winding-up takes place at the suit of a contributory, for the major part in value of the contributories assembled at a meeting to be held for the purpose, to appoint an official liquidator to act concurrently with the official liquidator so named by the Court. Every such meeting shall be held at a time and place to be fixed by the Court, and of which meeting such notice shall be given as the Court may direct.

Style and duties of official liquidators.

LXXXVIII. The official liquidators or liquidator shall be described by the style of the official liquidators or official liquidator of the particular Company in respect of which they or he are or is appointed, and not by their or his individual names or name; they or he shall take into their or his custody all the property, effects, and things in action of the Company, and shall perform such duties in reference to the winding-up of the Company as may be imposed by the Court.

Powers of official liquidators.

LXXXIX. The official liquidators shall have power, with the sanction of the Court, to do the following things:—

To bring or defend any action, suit, or prosecution, or other legal proceeding, Civil or Criminal, in the name and on behalf of the Company: and in such name to claim, prove, and draw dividends under any bankruptcy, insolvency, or sequestration;

To carry on the business of the Company, so far as it may be necessary for the beneficial winding-up of the same;

To sell the property, moveable or immoveable, effects, and things in action of the Company, by public auction or private

contract, with power if they think fit to transfer the whole thereof to any person or Company, or to sell the same in parcels;

To execute, in the name and on behalf of the Company, all deeds, receipts, and other documents they may think necessary, and for that purpose to use, when necessary, the Company's seal;

To refer disputes to arbitration, and compromise any debts or claims;

To draw, accept, make, and endorse any Bill of Exchange or Promissory Note, and also to raise upon the security of the assets of the Company from time to time any requisite sum or sums of money; and the drawing, accepting, making, or endorsing of every such Bill of Exchange or Promissory Note as aforesaid on behalf of the Company shall have the same effect with respect to the liability of such Company as if such Bill or Note had been drawn, accepted, made, or endorsed by such Company in the course of carrying on the business thereof;

To do and execute all such other things as may be necessary for winding-up the affairs of the Company and distributing its assets.

Remuneration of official liquidators.

XC. There shall be paid to the official liquidators such salary or remuneration, by way of percentage or otherwise, as the Court directs.

Dissolution of Company.

XCI. When the affairs of the Company have been completely wound-up, the Court shall make an order or decree declaring the Company to be dissolved from the date of such order or decree; and the Company shall be dissolved accordingly.

Registrar to make minute of dissolution of Company.

XCII. Any order or decree so made shall be reported by the official liquidators to the Registrar of Joint Stock Companies, who shall make a minute accordingly in his books of the dissolution of such Company.

Voluntary Winding-up of Company.

Circumstances under which Company may be wound-up voluntarily.

XCIII. A Company may be wound-up voluntarily, whenever the Company in general meeting has passed a special resolution to that effect. In such case the Company shall, from the date of the

commencement of such winding-up, cease to carry on its business except in so far as may be required for the beneficial winding-up thereof; but its corporate state and all its corporate powers shall, notwithstanding any provision to the contrary in its Articles of Association, continue until the affairs of the Company are wound-up.

Notice of resolution to wind-up voluntarily.

XCIV. Notice of any special resolution to wind-up a Company voluntarily shall be given as respects Companies registered in any Presidency in the official "Gazette" of that Presidency, and also in some newspaper (if any) circulating in the place where the registered office of the Company is situate; and, as respects a Company registered in any other part of the said territories, in some newspaper circulating in that part of the said territories, and also in some newspaper circulating in the part of the said territories in which the registered office is situate.

Consequences of voluntary winding-up.

XCV. The following consequences shall ensue upon the voluntary winding-up of a Company:—

1. The property of the Company shall be applied in satisfaction of its liabilities, and, subject thereto, shall, unless it be otherwise provided by the Articles of Association, be distributed amongst the shareholders in proportion to their shares;

2. Liquidators shall be appointed for the purpose of winding-up the affairs of the Company and distributing the property;

3. The Company in general meeting may appoint such person or persons as it thinks fit to be a liquidator or liquidators, and may fix the remuneration to be paid to them;

4. If one person only is appointed, all the provisions herein contained in reference to several liquidators shall apply to him;

5. When several liquidators are appointed every power hereby given may be exercised by any two of them;

6. The liquidators may, at any time after the passing of the resolution for winding-up the Company, and before they have ascertained the sufficiency of the assets of the Company or the debts and liabilities in respect of which the contributories are liable, call on all or any of the contributories to the extent of their liability to pay all or any sums they deem necessary to satisfy the debts and liabilities of the Company and the

costs of winding it up; and they may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same;

7. The liquidators shall have all powers hereinbefore vested in official liquidators, and may exercise the same without the intervention of the Court;

8. All books, papers, and documents in the hand of the liquidators shall at all reasonable times be open to the inspection of the shareholders;

9. When the creditors are satisfied, the liquidators shall proceed to adjust the rights of the contributories amongst themselves; and for the purposes of such adjustment they may make calls, on all the contributories to the extent of their liability for any sums they may deem necessary; and they may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same;

10. As soon as the affairs of the Company are fully wound-up, the liquidators shall make up an account showing the manner in which such winding-up has been conducted, and the property of the Company disposed of; and such account, with the vouchers thereof shall be laid before such person or persons as may be appointed by the Company to inspect the same; and upon such inspection being concluded, the liquidators shall proceed to call a general meeting of the shareholders for the purpose of considering such account; but no such meeting shall be deemed to be duly held, unless two months' previous notice, specifying the time, place, and object of such meeting, has been published in the manner specified in section XCIV. of this Act;

11. Such general meeting shall not enter upon any business except the consideration of the account; but the meeting may proceed to the consideration thereof, notwithstanding the quorum required by any regulation of the Company to be present at general meetings is not present thereat; and if, on consideration, the meeting is of opinion that the affairs of the Company have been fairly wound-up, they shall pass a resolution to that effect, and thereupon the liquidators shall publish a notice of such reso-

lution in the manner specified in section XCIV. of this Act, and shall also make a return to the Registrar of Joint Stock Companies of such resolution; and on the expiration of one month from the date of the registration of such return, the Company shall be deemed to be dissolved;

12. If, within one year after the passing of a resolution for winding-up the affairs of the Company, such affairs are not wound-up, the liquidators shall immediately thereafter make up an account showing the state of the affairs and the progress which has been made in winding-up down to that date, and they shall add thereto a report stating the reason why the winding-up has not been completed, and a general meeting shall be called to consider the same, and so on from year to year until the winding-up of the affairs of the Company is completed.

All costs, charges, and expenses properly incurred in the voluntary winding-up of a Company, including the remuneration of the liquidators, shall be payable out of the assets of the Company in priority to all other claims.

Saving of rights of creditors.

XCVI. The voluntary winding-up of a Company shall not prejudice the right of any creditor of such Company to institute proceedings for the purpose of having the same wound-up by the Court.

PART IV.

Registration.

Registration.

XCVII. The registration of Companies shall be conducted as follows (that is to say):—

1. The Local Government may, after the sanction of the Governor General in Council to the creation of any such offices shall have been obtained, from time to time appoint such Registrars, Assistant Registrars, Clerks, and servants, as it may think necessary for the registration of Companies under this Act, and remove them at pleasure.

2. The Local Government may make such regulations as it thinks fit with respect to the duties to be performed by any such Registrars, Assistant Registrars, Clerks, and Servants as aforesaid.

3. The Local Government may from time to time determine the place or places at which offices for the registration of Com-

panies are to be established; provided always that there shall be at all times maintained in each of the three Presidency Towns of Calcutta, Madras, and Bombay, at least one such office, and that every Company whose registered office is within any Presidency shall be registered in that Presidency.

4. Every person may inspect the documents kept by the Registrar of Joint Stock Companies; and there shall be paid for such inspection a fee of one Rupee for each inspection; and any person may require a copy or extract of any document, or any part of any document, to be certified by the Registrar on payment of two annas for every hundred words of such copy or extract; and such certified copy shall be *primâ facie* evidence of the matters therein contained in all legal proceedings whatever.

5. There shall be paid to any Registrar, Assistant Registrar, Clerk, or Servant that my hereafter be employed in the Registration of Joint Stock Companies, such salary as the Local Government may, with the sanction of the Governor General in Council, direct.

6. Whenever any act herein directed is to be done to or by the Registrar of Joint Stock Companies, such act shall, until a Registrar of Joint Stock Companies shall have been appointed by the Local Government, be done to or by the keeper of the records of the Supreme Court of the Presidency in which the registered office of the Company is situate, if such registered office is situate within a Presidency; otherwise by the keeper of the records of the Supreme Court of the Presidency of Bengal.

PART V.

Repeal of former Act and Temporary Provisions.

Repeal.

Repeal of Act XLIII. of 1850.

XCVIII. Act XLIII. of 1850, is hereby repealed, except as to acts done, proceedings commenced, or liabilites incurred before the passing of this Act. But such repeal shall not take effect with respect to any Company registered under the said Act, until such Company has obtained registration under this Act as hereinafter mentioned.

Temporary Provisions.

Registration of existing Companies.

XCIX. Any Company registered under the said Act, and any other Company duly constituted by law, previously to the passing of this Act, and consisting of seven or more shareholders, may at any time hereafter register itself as a Company under this Act, with or without limited liability, subject to this proviso, that no Company established for the purpose of [Banking] or Insurance shall be registered under this Act as a limited Company, and that no Company shall be registered under this Act unless an assent to its being so registered has been given by three-fourths in number and value of such of its shareholders as may have been present, personally, or by proxy in cases where proxies are allowed by the regulations of the Company, at some general meeting summoned for that purpose. [Repealed as respect Banks by Act VII., 1860, s. 1.]

Requisitions for registration by existing Companies.

C. Previously to the registration under this Act of any existing Company, there shall be delivered to the Registrar of Joint Stock Companies the following documents (that is to say):—

1. In the case of a Company registered under the said Act, if such Company is not intended to be registered as a limited Company, a list showing the names, addresses, and occupations of all persons who on the day of registration are holders of shares in the Company, with the addition of the shares held by such persons respectively, distinguishing each share by its number.

2. If such Company is intended to be registered as a limited Company under the provisions of this Act, the above list shall be accompanied with a statement specifying the following particulars:

The nominal capital of the Company, and the number of shares into which it is divided;

The number of shares taken, and the amount paid on each share; and

The name of such Company, with the addition of the word "Limited" as the last word thereof.

3. In the case of any other Company, duly constituted by law previously to the passing of this Act, and consisting of seven or more shareholders, if it is not intended to be registered as a

limited Company, there shall be delivered to the Registrar of Joint Stock Companies such list of Shareholders as is hereinbefore mentioned, and also a copy of any Law, Royal Charter, Letters Patent, Deed of Settlement, or other instrument constituting or regulating the Company;

4. If any such Company as last aforesaid is intended to be registered as a limited Company, the above list and copy shall be accompanied by a statement specifying the following particulars (that is to say):—

The nominal capital of the Company, and the number of shares into which it is divided;

The number of shares taken, and the amount paid on each share; and

The name of the Company, with the addition of the word "Limited" as the last word thereof.

Authentication of statements of existing Companies.

CI. The list of Shareholders and any other particulars relating to the Company, hereby required to be delivered to the Registrar, shall be verified by declaration of the Directors of the Company delivering the same, or any two of them, or of any two other principal officers of the Company.

Certificate of registration of existing Companies.

CII. Upon compliance with the foregoing requisitions, the Registrar of Joint Stock Companies shall certify under his hand that the Company so applying for registration is incorporated as a Company under this Act, and, in the case of a limited Company, that it is limited, and thereupon such Company shall be incorporated accordingly; and all provisions contained in any Deed of Settlement, Law, Royal Charter, or Letters Patent or other instrument constituting or regulating the Company, shall be deemed to be regulations of the Company within the meaning of this Act; and all the provisions of this Act shall apply to such Company in the same manner in all respects as if it had been originally incorporated under this Act; subject, nevertheless, to the reservations hereinafter contained with respect to the existing rights of creditors and other persons; and subject to this proviso, that, except in so far as is hereinafter permitted, no Company, constituted by any special law, shall have power to alter any of the provisions contained in such law; and no Company constituted

by Royal Charter or Letters Patent shall have power, by a special resolution or otherwise, to alter any of the provisions contained in such Charter or Letters Patent.

Power of Company to change name.

CIII. Any existing Company may, for the purpose of obtaining registration with limited liability, change its name by adding thereto the word "Limited," or do any other act that may be necessary.

Certificate to be evidence of compliance with Act.

CIV. The certificate of incorporation given to any existing Company, in pursuance of this Act, shall be conclusive evidence that all the requisitions herein contained in respect of registration under this Act have been complied with; and the date of such certificate shall be deemed to be the date on which the Company is incorporated under this Act.

Saving rights of creditors.

CV. The registration of any existing Company under this Act shall not, nor shall any act of the Company subsequent to such registration, prejudice any right which previously to such registration has, or which would, if no such registration had taken place, have accrued to any creditor or other person against the Company in its corporate capacity in respect of any act done or liability incurred previously to such registration, or against any person then being or having been a Member of such Company; but every such creditor or other person shall be entitled, in respect of any such act or liability, to all such remedies against the Company in its corporate capacity, and against every person then being or having been a member of such Company, as he would have been entitled to in case such registration had not taken place.

SCHEDULE.

Form A.

Memorandum of Association of "The Company, Limited."

1. The name of the Company is "The Company, Limited."

2. The registered office of the Company is to be established in

3. The objects for which the Company is established are "the and the doing all such other things as are incidental or conducive to the attainment of the above object."

4. The liability of the shareholders is "Limited."

5. The nominal capital of the Company is rupees, divided into shares of rupees each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this Memorandum of Association; and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names:—

Names and Addresses of Subscribers.	Number of shares taken by each Subscriber.
1. A. B.	
2. B. C.	
3. C. D.	
4. E. F.	
5. G. H.	
6. I. J.	
7. K. L.	
Total shares taken ...	

Dated the day of

Witness to the above signatures

A. B.

TABLE B.

REGULATIONS FOR MANAGEMENT OF THE COMPANY.

SHARES.

1. No person shall be deemed to have accepted any share in the Company unless he has testified his acceptance thereof by writing under his hand, in such form as the Company from time to time directs.

2. The Company may from time to time make such calls upon the shareholders in respect of all moneys unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call, and each shareholder shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the Company.

3. A call shall be deemed to have been made at the time when the resolution authorising such call was passed.

4. If, before or on the day appointed for payment, any shareholder does not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest for the same at the rate of 5 per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

5. The Company may, if they think fit, receive, from any of the shareholders willing to advance the same, all or any part of the moneys due upon their respective shares beyond the sums actually called for; and upon the moneys so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the shareholder paying such sum in advance and the Company agree upon.

6. If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

7. The Company may decline to register any transfer of shares made by a shareholder who is indebted to them.

8. Every shareholder shall, on payment of such sum not exceeding eight annas, as the Company may prescribe, be entitled to a certificate, under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

9. If such certificate is worn out or lost, it may be renewed on payment of such sum not exceeding eight annas as the Company may prescribe.

10. The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

TRANSMISSION OF SHARES.

11. The executors or administrators or representatives of a deceased shareholder shall be the only persons recognized by the Company as having any title to his share.

12. Any person becoming entitled to a share in consequence of the death, bankruptcy, or insolvency of any shareholder, or in consequence of the marriage of any female shareholder, or in any way other than by transfer, may be registered as a share-

holder upon such evidence being produced as may from time to time be required by the Company.

13. Any person who has become entitled to a share in any way other than by transfer may instead of being registered himself, elect to have some person to be named by him registered as a holder of such share.

14. The person so becoming entitled shall testify such election by executing to his nominee a transfer of such share.

15. The instrument of transfer shall be presented to the Company accompanied with such evidence as they may require to prove the title of the transferror; and thereupon the Company shall register the transferree as a Shareholder.

Forfeiture of Shares.

16. If any Shareholder fails to pay any call due on the appointed day, the Company may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him, requiring him to pay such call, together with any interest that may have accrued by reason of such non-payment.

17. The notice shall name a further date, and a place or places being a place or places at which calls of the Company are usually made payable, on and at which such call is to be paid: it shall also state that, in the event of non-payment at the time and place appointed, the shares in respect of which such call was made will be liable to be forfeited.

18. If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may be forfeited by a resolution of the Directors to that effect.

19. Any shares so forfeited shall be deemed to be the property of the Company, and may be disposed of in such manner as the Company thinks fit.

20. Any Shareholder whose shares have been forfeited shall, notwithstanding, be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

Increase in Capital.

21. The Company may, with the sanction of the Company previously given in general meeting, increase its capital.

22. And capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions in all respects, whether with reference to the payment of calls, or the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings.

23. The first general meeting shall be held at such time, not being more than twelve months after the incorporation of the Company, and at such place, as the Directors may determine.

24. Subsequent general meetings shall be held at such time and place as may be prescribed by the Company in general meeting; and if no other time or place is prescribed, a general meeting shall be held on the day of in every year, at such place as may be determined by the Directors.

25. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

26. The Directors may, whenever they think fit, and they shall, upon a requisition made in writing by any number of Shareholders holding in the aggregate not less than one-fifth part of the shares of the Company, convene an extraordinary general meeting.

27. Any requisition so made by the Shareholders shall express the object of the meeting proposed to be called, and shall be left at the registered office of the Company.

28. Upon the receipt of such requisition, the Directors shall forthwith proceed to convene a general meeting; if they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other shareholders holding the required number of shares, may themselves convene a meeting.

29. Seven days' notice at the least, specifying the place, the time, the hour of meeting, and purpose for which any general meeting is to be held, shall be given by advertisement or in such other manner (if any) as may be prescribed by the Company.

30. Any Shareholder may, on giving not less than three days' previous notice, submit any resolution to a meeting beyond the matters contained in the notice given of such meeting.

31. The notice required of a Shareholder shall be given by leaving a copy of the resolution at the registered office of the Company.

32. No business shall be transacted at any meeting, except the declaration of a dividend, unless a quorum of shareholders is present at the commencement of such business, and such quorum shall be ascertained as follows (that is to say):—If the shareholders belonging to the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional shareholders up to fifty, and one for every ten additional shareholders after fifty, with this limitation, that it shall not be necessary for any quorum in any case to exceed forty.

33. If, within one hour from the time appointed for the meeting the required number of shareholders is not present, the meeting, if convened upon the requisition of the shareholders, shall be dissolved: in any other case it shall stand adjourned to the following day at the same time and place; and if at such adjourned meeting the required number of shareholders is not present it shall be adjourned *sine die*.

34. The Chairman (if any) of the Board of Directors shall preside as Chairman at every meeting of the Company.

35. If there is no such Chairman, or if at any meeting he is not present at the time of holding the same, the shareholders present shall choose some one of their number to be Chairman of such meeting.

36. The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

37. At any general meeting, unless a poll is demanded by at least five shareholders, a declaration by the Chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

38. If a poll is demanded in manner aforesaid, the same shall

be taken in such manner as the Chairman directs; and the result of such poll shall be deemed to be the resolution of the Company in general meeting.

VOTES OF SHAREHOLDERS.

39. Every shareholder shall have one vote for every share up to ten; he shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares held by him beyond the first hundred shares.

40. If any shareholder is a lunatic or idiot, he may vote by his committee; and if any shareholder is a minor, he may vote by his guardian, or any one of his guardians if more than one.

41. If more persons than one are jointly entitled to a share or shares, the person whose name stands first in the Register of shareholders as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

42. No shareholder shall be entitle to vote at any meeting, unless all calls due from him have been paid, nor until he shall have been possessed of his shares three calendar months, unless such shares shall have been acquired, or shall have come by bequest, or by marriage, or by succession to an intestate's estate, or by any deed of settlement, after the death of any person who shall have been entitled for life to the dividends of such shares.

43. Votes may be given either personally or by proxies; a proxy shall be appointed in writing under the hand of the appointor, or, if such appointor is a corporation, under their common seal.

44. No person shall be appointed a proxy who is not a shareholder, and the instrument appointing him shall be deposited at the registered officer of the Company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote; but no instrument appointing a proxy shall be valid after the expiration of one month from the date of its execution.

DIRECTORS.

45. The number of the Directors, and the names of the first Directors, shall be determined by the subscribers of the Memorandum of Association.

46. Until Directors are appointed, the subscribers of the Memorandum of Association shall, for all the purposes of this Act, be deemed to be Directors.

POWERS OF DIRECTORS.

47. The business of the Company shall be managed by the Directors, who may exercise all such powers of the Company as are not by this Act or by the Articles of Association, if any, declared to be exercisable by the Company in general meeting, subject nevertheless to any Regulations of the Articles of Association, to the provisions of this Act, and to such regulations not being inconsistent with the aforesaid regulations or provisions, as may be prescribed by the Company in general meeting, but no regulation made by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made.

DISQUALIFICATION OF DIRECTORS.

48. The office of Director shall be vacated—

If he holds any other office or place of profit under the company;

If he becomes bankrupt or insolvent;

If he is concerned in or participates in the profits of any contract with the Company;

If he participates in the profits of any work done for the Company.

But the above rules shall be subject to the following exceptions:—That no Director shall vacate his office by reason of his being a shareholder in any incorporated Company which has entered into contracts with or done any work for the Company of which he is Director; nevertheless he shall not vote in respect of such contract or work; and if he does so vote, his vote shall not be counted, and he shall incur a penalty not exceeding five hundred rupees.

ROTATION OF DIRECTORS.

49. At the first ordinary meeting after the incorporation of the Company, the whole of the Directors shall retire from office; and at the first ordinary meeting in every subsequent year, one-third of the Directors for the time being, or, if their number is

not a multiple of three, then the number nearest to one-third, shall retire from office.

50. The one-third or other nearest number to retire during the first and second years ensuing the incorporation of the Company shall, unless the Directors agree among themselves, be determined by ballot: in every subsequent year the one-third or other nearest number who have been longest in office shall retire.

51. A retiring Director shall be re-eligible.

52. The Company at the general meeting at which any Directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

53. If, at any meeting at which an election of Directors ought to take place, no such election is made, the meeting shall stand adjourned till the next day at the same time and place; and if at such adjourned meeting no election takes place, the former Directors shall continue to act until new Directors are appointed at the first ordinary meeting of the following year.

54. The Company may from time to time, in general meeting increase or reduce the number of Directors, and may also determine in what rotation such increased or reduced number is to go out of office.

55. Any casual vacancy occurring in the Board of Directors may be filled up by the Directors; but any person so chosen shall retain his office so long only as the vacating Director would have retained the same if no vacancy had occured.

Proceedings of Directors.

56. The Directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business: questions arising at any meeting shall be decided by a majority of votes: in case of an equality of votes the Chairman, in addition to his original vote, shall have a casting vote: a Director may at any time summon a meeting of the Directors.

57. The Directors may elect a Chairman of their meetings and determine the period for which he is to hold office; but if no such Chairman is elected, or if at any meeting the Chairman is not present at the time appointed for holding the same, the

Directors present shall choose some one of their number to be Chairman of such meeting.

58. The Directors may delegate any of their powers to Committees consisting of such member or members of their body as they think fit: any Committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the Directors.

59. A Committee may elect a Chairman of their meetings: if no such Chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be Chairman of such Meeting.

60. A Committee may meet and adjourn as they think proper: questions at any Meeting shall be determined by a majority of votes of the members present; and in case of an equal division of votes the Chairman shall have a casting vote.

61. All acts done by any meeting of the Directors, or of a Committee of Directors, or by any person acting as a Director, shall, notwithstanding that it be afterwards discovered that there were some defect in the appointment of any such Directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

62. The Directors shall cause Minutes to be made in books provided for the purpose—

1. Of all appointments of officers made by the Directors;

2. Of the names of the Directors present at each meeting of Directors and Committees of Directors;

3. Of all orders made by the Directors and Committees of Directors; and

4. Of all resolutions and proceedings of meetings of the Company, and of the Directors and Committees of Directors.

And any such minute as aforesaid, if signed by any person purporting to be the Chairman of any meeting of Directors, or Committee of Directors shall be receivable in evidence without any further proof.

63. The Company, in general meeting, may, by a special resolution, remove any Director before the expiration of his period of office, and appoint another qualified person in his stead:

the person so appointed shall hold office during such time only as the Director in whose place he is appointed would have held the same if he had not been removed.

Dividends.

64. The Directors may, with the sanction of the Company in general meeting, declare a dividend to be paid to the Shareholders in proportion to their shares.

65. The Directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalising dividends, or for repairing or maintaining the works connected with the business of the Company, or any part thereof; and the Directors may invest the sum so set apart as a reserved fund upon such securities as they, with the sanction of the Company, may select.

66. The Directors may deduct from the dividends payable to any Shareholder all such sums of money as may be due from him to the Company on account of calls or otherwise.

67. Notice of any dividend that may have been declared shall be given to each Shareholder, or sent by post or otherwise to his registered place of abode; and all dividends unclaimed for three years, after having been declared, may be forfeited by the Directors for the benefit of the Company.

68. No dividend shall bear interest as against the Company.

Accounts.

69. Once at the least in every year the Directors shall lay before the Company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

70. The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries, and other like matters; every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and in cases where any item of

expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

71. A balance-sheet shall be made out in every year, and laid before the general meeting of the Company; and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this Table, or as near thereto as circumstances admit.

72. A printed copy of such balance-sheet shall, seven days previously to such meeting, be delivered at or sent by post to the registered address of every shareholder.

AUDIT.

73. The accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained by one or more Auditor or Auditors to be elected by the Company in general meeting.

74. If not more than one Auditor is appointed, all the provisions herein contained relating to Auditors shall apply to him.

75. The Auditors need not be shareholders in the Company, no person is eligible as an Auditor who is interested otherwise than as a shareholder in any transaction of the Company; and no Director or other officer of the Company is eligible during his continuance in office.

76. The election of Auditors shall be made by the Company at their ordinary meeting, or, if there are more than one, at their first ordinary meeting in each year.

77. The remuneration of the Auditors shall be fixed by the Company at the time of their election.

78. Any Auditor shall be re-eligible on his quitting office.

79. If any casual vacancy occurs in the office of Auditor, the Directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

80. If no election of Auditors is made in manner aforesaid, the Local Government may, on the application of one-fifth in

number of the shareholders of the Company, appoint an Auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

81. Every Auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same, with the accounts and vouchers relating thereto.

82. Every Auditor shall have a list delivered to him of all books kept by the Company, and he shall at all reasonable times have access to the books and accounts of the Company; he may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may in relation to such accounts examine the Directors or any other officer of the Company.

83. The Auditors shall make a report to the shareholders upon the balance-sheet and accounts; and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs; and in case they have called for explanations or information from the Directors, whether such explanations or information have been given by the Directors, and whether they have been satisfactory; and such report shall be read, together with the report of the Directors, at the ordinary meeting.

NOTICES.

84. Notices requiring to be served by the Company upon the shareholders, may be served either personally or by leaving the same or sending them through the post in a letter addressed to the shareholders at their registered places of abode.

85. All notices directed to be given to the shareholders, shall, with respect to any share to which persons are jointly entitled, be given to whichever of the said persons is named first in the Register of Shareholders; and notice so given shall be sufficient notice to all the proprietors of such share.

FORM OF BALANCE SHEET REFERRED TO IN TABLE B.

DR. BALANCE SHEET of the Co., made up to 18 CR.

CAPITAL AND LIABILITIES.			Rs. A. P.	Rs. A. P.	PROPERTY AND ASSETS.			Rs. A. P.	Rs. A. P.
I. CAPITAL	1	Showing The total amount received from the shareholders; showing also (a.) The number of shares. (b.) The amount paid per share. (c.) If any arrears of calls, the nature of the arrear, and the names of the defaulters. (Any arrears due from any Director or officer of the Company to be separately stated.) (d.) The particulars of any forfeited shares.			III. PROPERTY held by the Company	4	Showing Immoveable property, distinguishing (a.) Land (describing tenure). (b.) Buildings.		
						5	Moveable property, distinguishing (c.) Stock in Trade. (d.) Plant. (The cost to be stated with deduction for deterioration in value as charged to the reserve fund or profit and loss.)		
II. DEBTS AND LIABILITIES of the Company	2	Showing The amount of loans on mortgage or debenture bonds.			IV. DEBTS owing to the Company		Showing		
	3	The amount of debts owing by the Company, distinguishing— (a.) Debts for which acceptances have been given. (b.) Debts to Tradesmen for supplies of stock in trade or other articles. (c.) Debts for law expenses. (d.) Debts for interest on debentures or other loans. (e.) Unclaimed dividends. (f.) Debts not enumerated above.				6	Debts considered good for which the Company hold bills or other securities.		
						7	Debts considered good for which the Company hold no security.		
						8	Debts considered doubtful and bad. (Any debt due from a Director or other officer of the Company to be separately stated.)		
					V. CASH AND INVESTMENT ...		Showing		
						9	The nature of investment and rate of interest.		
						10	The amount of cash, where lodged, and if bearing interest.		
VI. RESERVE FUND		Showing The amount set aside from profits to meet contingencies.							
VII. PROFIT AND LOSS		Showing The disposable balance for payment of dividend, &c.							
CONTINGENT LIABILITIES ...		Claims against the Company not acknowledged as Debts. Moneys for which the Company is contingently liable.							

FORM C.

Memorandum of Association of "The Company, Limited, with Articles of Association annexed.

MEMORANDUM OF ASSOCIATION.

1. The name of the Company is "The Company, Limited."

2. The registered office of the Company is to be established in

3. The objects for which the Company is established are

4. The liability of the Shareholders is "Limited."

5. The capital of the Company is rupees divided into shares of rupees each.

We, the several persons whose names are subscribed, are desirous of being formed into a Company in pursuance of this Memorandum of Association; and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names:—

Names and Addresses of Subscribers.	Number of shares taken by subscribers.
1. A. B.	
2. B. C.	
3. C. D.	
4. E. F.	
5. G. H.	
6. I. J.	
7. K. L.	
Total shares taken ...	

Witness to the above signatures

A. B.

Articles of Association of the Company, Limited.

It is agreed as follows:—

1. No shareholder shall transfer his shares without the consent of the Directors expressed in writing.

2. If any shareholder feels aggrieved with the refusal of the

Directors to allow him to transfer his shares, the matter shall be settled by arbitration.

3. Calls on the shares of the Company, not considered as paid-up shares, shall be made at such time as the Directors think fit; but no call shall exceed one hundred rupees per share.

4. The Company shall not be obliged to register the transferree under the regulations numbered 13 and 14 in the Table B. unless he is approved by the Directors; but in the event of their disapproving, the matter may be decided by arbitration.

5. The Regulations of Table B, as to general meetings, numbered 23, 24, and 26, shall not apply.

6. The first general meeting of the Company shall be held on the first day of next, and subsequent general meetings shall be held on the first day of in every succeeding year, or if that day is a Sunday, on the succeeding Monday.

7. An extraordinary general meeting may be summoned at any time by any two shareholders of the Company.

8. All matters in question between the shareholders shall be decided by an arbitrator appointed by

9. The regulation of Table B, as to votes of Shareholders, numbered 39, shall not apply; and every Shareholder shall have one vote in respect of every share that he holds.

The several persons hereinafter named, subscribers to the Memorandum of Association, shall be the first Directors of the Company (that is to say): A. B., B. C., C. D., E. F., G. H., I. J., and K. L.

Names and addresses of subscribers.

1. A. B.
2. B. C.
3. C. D.
4. E. F.
5. G. H.
6. I. J.
7. K. L.

Witness to the above signatures.

A. B.

TABLE D.

TABLE OF FEES.

	RS.	AS.	P.
For registration of a Company whose nominal capital does not exceed 10,000 rupees	50	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees, after the first 10,000 rupees, and up to 10,00,000 rupees an additional fee of	2	8	0
For every 10,000 rupees, or part of 10,000 rupees after the first 10,00,000 rupees, an additional fee of	0	8	0
For registration of any increase in the capital of a Company for every 10,000 rupees, or part of 10,000 rupees, up to 10,00,000 rupees in the whole	2	8	0
For every 10,000 rupees, or part of 10,000 rupees, beyond the first 10,00,000 rupees an additional fee of	0	8	0
For registering any document hereby required or authorised to be registered, other than the Memorandum of Association, a fee of	2	8	0
For making a record of any fact hereby authorised or required to be recorded by the Registrar of Companies, a fee of	2	8	0

FORM E.

Summary of capital and shares of the *Company, made up to the* *day of*

Nominal capital Co.'s rupees divided into shares of Co.'s rupees each.

Number of shares taken up to the day of

There has been called upon each share Co.'s rupees

Total amount of calls received Co.'s rupees

Total amount of calls unpaid Co.'s rupees

Total amount of shares forfeited Co.'s rupees.

List of persons holding shares in the *Company on the* *day of* *and of persons who have held shares therein at any time during the year immediately preceding the said* *day of* *showing their names and addresses and an account of the shares so held.*

Folio in Register Ledger containing particulars.	NAMES, ADDRESSES, AND OCCUPATIONS.			ACCOUNT OF SHARES.					REMARKS.
	Name.	Address.	Occupation, if any, or other description.	Shares held by existing Shareholders on the day of	Additional shares held by existing Shareholders during preceding year.		Shares held by persons no longer Shareholders.		
					Number.	Date of transfer.	Number.	Date of transfer.	

FORM F.

FORM OF TRANSFER OF SHARES.

I of (in consideration of the sum of paid to me by of)* do hereby transfer to the said share [or shares] numbered in "The Company" standing in my name in the books of the Company, to hold unto the said his executors, administrators, representatives, or assigns [or executors and assigns] subject to the several conditions on which I held the same at the time of the execution hereof; and I the said do hereby agree to take the said share [or shares] subject to the same conditions. As witness our hands, the day of

* These words will be omitted if no consideration is paid.

Repealed by Act X., 1866, "The Indian Companies' Act, 1861," (see Third Schedule.) But as many Companies have been registered under the above Act; as the new Act only partially applies to pre-existing Companies; as an important Act and provision, viz., Table A. in the New Act does not apply to pre-existing Companies, I have retained the whole of the above Act.

CALCUTTA, MADRAS, AND BOMBAY.—COURTS OF SMALL CAUSES.

ACT NO. XX. OF 1857.

[*Received the assent of the G. G. on the* 10*th July*, 1857.

Recites expediency of authorising the rate of diet money for prisoners under Act IX., 1850, to be varied.

1. Empowers the Government to regulate the rate of diet-money for such prisoners.

2. In case of illness or for other special cause, the Court may vary the rate up to six annas a day, and may from time to time revise such rate.

3. This Act to be read as part of Act IX., 1850.

An Act to amend Act IX. of 1850.

Preamble.

Whereas it is expedient that authority should be given to vary the rate of diet money to be deposited for the subsistence of persons imprisoned under Act IX. of 1850, it is enacted as follows:

Government empowered to regulate the rate of diet money prescribed in section LXII., Act IX., of 1850.

I. Whenever, with reference to the price of provisions in any Presidency, the Governor in Council shall be of opinion that the rate of diet money prescribed in section LXII. of Act IX. of 1850 is insufficient for the subsistence of persons imprisoned under that Act, it shall be lawful for the Governor in Council from time to time to fix such other rate, not exceeding three annas for each day, as may to him seem sufficient.

Court may vary the rate, in case of illness or for other special cause.

II. It shall be lawful for a Judge of a Court of Small Causes holden under the said Act, in case of illness or for other special cause, to order that the diet-money to be deposited for the subsistence of a prisoner taken in execution under a warrant of the Court, shall be deposited after such rate, not exceeding six annas for each day, as may to him seem necessary. Every such order may from time to time be revised and altered on due cause being shown.

Construction.

III. This Act shall be read with and taken as a part of Act IX. of 1850.

Repealed by Act VI., 1864, of the Bombay Council, as to the Presidency and Court of Small Causes, Bombay.

SUBURBS OF CALCUTTA AND HOWRAH.

Act No. XXI. of 1857.

[*Received the assent of the G. G. on the* 10*th July*, 1857.

Recites that it will conduce to the order and good government of the suburbs of Calcutta that some of the provisions of the Police and Conservancy Acts for the Presidency Towns should, with modifications, be extended to them.

1. Offenders against this Act may be tried by the Magistrate within whose jurisdiction the offence is alleged to have been committed.

2. Imposes a fine of 100 rupees or imprisonment for 3 months on persons failing to account for property in their possession and reasonably suspected to have been stolen; and empowers the Magistrate to summon all persons in whose possession the property in question is alleged to have previously been, and to punish them, if their possession of it appear to have been fraudulent.

3. Authorises the apprehension by a police officer, without warrant, of reputed thieves, &c., and renders them liable to 3 months' imprisonment.

4. Authorises the disarming by a police officer of any person carrying arms without leave, and confiscates the weapon.

5. On proof of wilful neglect to maintain wife or child, the Magistrate may order a monthly allowance not exceeding 50 rupees; and on neglect to comply with the order may levy the amount as a fine or imprison for one month. Application may be made from time to time for reduction of allowance.

6. Imposes a fine of not more than 100 rupees for harbouring or concealing deserters from merchant vessels.

7. On complaint of three or more householders, the Magistrate may order discontinuance of a brothel, and on failure to comply may fine the owner or tenant 25 rupees a day.

8. License for retail sale of spirituous or fermented liquors not to be granted without concurrence of the Magistrate, and on a difference between the Magistrate and the Collector, the Commissioner to decide, subject to the orders of the Lieutenant-Governor.

9. License to be revoked by the Collector on the application of the Magistrate upon conviction of an offence under section XLV., Act XXI., 1856.

10. Imposes a fine of 100 rupees or imprisonment for 3 months for owning, keeping, or conducting, a gaming house.

11. Imposes a fine of 100 rupees or imprisonment for 1 month for being found in a gaming house for the purpose of gaming. Mere presence to be *primâ facie* evidence of purpose.

12. The Magistrate, on sworn information and after enquiry, may grant a warrant to any superior officer of police to enter a house believed to be a gaming house.

13. On conviction for keeping or being found in a gaming house, the instruments of gaming are to be destroyed and all other articles seized therein to be sold, and the proceeds and all moneys forfeited.

14. The Magistrate may order one-fourth of the fine or any part of the moneys or proceeds of sale to be paid to an informer.

15. Authorises arrest without warrant by a police officer of persons found gaming in the streets and renders them liable to a fine of 20 rupees or imprisonment for one month.

16. Imposes a fine of 50 rupees for each failure of a Pawnbroker, &c., to report his having been offered any property of which he had received information from the police—except wearing apparel, not appearing to have been concealed knowingly.

17. Melting, altering, defacing, or putting away stolen property, after information of the theft, to be sufficient evidence of receivership, as against a Pawnbroker, &c.

18. Imposes for the unlicensed manufacturer or possession of gunpowder, a fine of not more than 200 rupees and forfeiture.

19. Empowers the Magistrate to grant conditional yearly licenses for the sale or keeping in deposit of 50 pounds of gunpowder.

20. Imposes, for drunkenness or riotous or indecent behaviour in public, a fine of 20 rupees or imprisonment for 14 days.

21. Imposes for a nuisance committed in public, a fine of 10 rupees, or in default, imprisonment for 14 days.

22. Imposes on public beggars imprisonment for one month.

23, 24. Imposes a fine of 20 rupees for furious or negligent driving or riding—suffering a horse or ferocious dog to be loose—leaving a cart, &c., without control—fastening animals so as to cause obstruction—ill-treating animals—lighting bon-fires, discharging guns, &c.,—and beating tom-toms, &c., at night without leave.

25, 26. Imposes a fine of 10 rupees for depositing refuse on the streets, or allowing sewage to flow on to them.

27, 28, 29, 30, 31. Relate to obstructions on, and projections into, street and roads.

32. Empowers the Magistrate to trim hedges and trees bordering roads at the expense of the owners.

33, 34. Houses in a ruinous state, how to be dealt with.

35. Imposes a fine of 50 rupees on the occupier of a house for not removing filth.

36. Imposes a fine of 50 rupees on owner or occupier of a house allowed to remain filthy, unwholesome, or overgrown.

37. Imposes a fine of 20 rupees on owner or keeper of a filthy sheep-pen, &c.

38. Allows the Magistrate to license public necessaries.

39. Imposes on the owner a fine of 50 rupees for not keeping a private drain in proper state.

40. Imposes a fine of 50 rupees for fouling the water of a public tank by bathing or washing in it—or throwing rubbish or allowing drain water to flow into it.

41, 42. Empower the Magistrate to fill up unwholesome tanks on private premises, and to drain off and cleanse stagnant pools in open places, whether private property or not.

43. Imposes a fine of 50 rupees for depositing building materials or making excavations on the road without leave, or neglecting to light them, when authorised.

44. Empowers the Magistrate to repair or enclose dangerous places at the expense of the owner.

45, 46. Regulate the establishment and maintenance of slaughter-houses.

47. Imposes a fine of 200 rupees for establishing without license offensive and dangerous trades within certain limits, and a further fine of 50 rupees a day for continuance of such offence after conviction.

48. No burial or burning place to be henceforth constructed without license from the Magistrate or the Lieutenant-Governor, under the penalty of a fine of 200 rupees.

49. The Magistrate, with the sanction of the Lieutenant-Governor, and after two months' notice, may close unhealthy burning or burial places. Fine of 100 rupees for use of such places after expiry of notice.

50. Magistrate may, by written and published order, appoint certain period within which dogs found straying may be destroyed.

51, 52. Empower a police officer to arrest without warrant either on view of the offence, or on a charge of recently-committed aggravated assault.

53. Persons taken into custody without warrant—if not bailed—must be taken before the Magistrate within 24 hours.

54. Magistrate how to proceed on information or complaint of offence against this Act. No appeal from order, duly sanctioned, under section XLIX.

55. Mode of determining and recovering costs and expenses.

56. Jurisdiction of Joint, or Deputy, or Assistant Magistrate.

57. Fines, how to be applied.

58. Supersedes Act XXI., 1841, *pro tanto*.

59. Interpretation clause.

An Act to make better provision for the order and good government of the suburbs of Calcutta and of the station of Howrah.

Preamble.

Whereas Acts have been passed for regulating the police and for the conservancy and improvement of the town of Calcutta and of the other Presidency towns; and whereas large portions of the suburbs of the said town of Calcutta and of the station of Howrah are not less populous than parts of the said town, and it will conduce to the order and good government of the said suburbs and station, that some of the provisions of the said Acts, with certain necessary modifications, should be extended to the said suburbs and station, it is enacted as follows:

Cases under this Act by whom to be tried.

I. Whoever is charged with having committed any of the offences mentioned in this Act within the limits of the said suburbs or station, as described in the schedule hereunto annexed, may be tried for any such offence by the Magistrate within whose jurisdiction the offence is alleged to have been committed; and, on conviction, may be sentenced by such Magistrate to the punishment hereinafter prescribed for the offence.

Fraudulent possession of stolen property.

II. *Clause* I.—Whoever has in his possession, or conveys in any manner, any thing which may be reasonably suspected of being stolen or fraudulently obtained, shall, if he fail to account satisfactorily how he came by the same, be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labor, for any term not exceeding three months.

Clause 2.—If any person, charged with having or conveying

Power to summon persons declared to have had possession of such property within the jurisdiction of the Magistrate.

any thing stolen or fraudulently obtained, shall declare that he received the same from some other person, or that he was employed as a carrier, agent, or servant, to convey the same for some other person, the Magistrate may cause every such other person, and also, if necessary, every former or pretended purchaser or other person through whose possession the same shall have passed (provided that such other person shall be alleged to have had possession of the same within the jurisdiction of such Magistrate) to be brought before him and examined, and shall examine witness touching the same; and if it appear to such Magistrate that any person so brought before him had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, such person shall be liable to a penalty not exceeding one hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding three months.

Penalty if such possession fraudulent.

III. Any person found between sun-set and sun-rise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any offence against the person or property of another; any reputed thief found between sun-set and sun-rise, on board any vessel or boat, or lying or loitering in any bazaar, street, road, yard, thoroughfare, or other place, who shall not give a satisfactory account of himself; any person found between sun-set and sun-rise, having his face covered, or otherwise disguised with intent to commit any such offence as aforesaid; any person found between sun-set and sun-rise, in any dwelling-house, or other building whatsoever, without being able satisfactorily to account for his presence therein; and any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking, shall be liable to imprisonment, with or without hard labor, for a term not exceeding three months; and any such person may be taken into custody by any police officer without a warrant.

Apprehension and punishment of reputed thieves, &c.

IV. Whoever, not being a soldier or sailor in the Army or Navy of the Queen of the East India Company, or a Police officer, goes armed with any

Penalty for carrying arms without authority.

sword, spear, gun, or other offensive weapon, in any street, thoroughfare, or public place, unless by leave of the Magistrate, shall be liable to be disarmed by any Police officer; and the weapon so seized shall be forfeited to the Government, unless redeemed by payment of a fine, at the discretion of the Magistrate, not exceeding Ten Rupees.

Magistrate may make order for maintenance of wives or children.

V. If any person, having sufficient means, neglects or refuses to maintain his wife or any legitimate or illegitimate child unable to maintain himself, it shall be lawful for the Magistrate, upon due proof thereof, to order such person to make a monthly allowance for the maintenance of his wife or such child as aforesaid, at such rate, not exceeding Fifty Rupees in the whole, as to the Magistrate shall seem reasonable; and if such person shall wilfully neglect to comply with the said order, the Magistrate may, by warrant, direct the amount due to be levied in the manner in which fines may be levied, or may order him to be imprisoned, with or without hard labor, for any term not exceeding one month. Provided always that any such person shall be at liberty to apply to the Magistrate, from time to time, for a reduction of such monthly allowance, on proof of an alteration in the circumstances of himself, his wife, or child, justifying such reduction.

Penalty for harbouring and concealing deserters from merchant vessels.

VI. Whoever wilfully harbours or conceals any seaman or apprentice belonging to a merchant vessel, knowing, or having reason to believe, such seaman or apprentice to be a deserter, shall be liable to a fine not exceeding one hundred Rupees.

Brothels.

VII. On the complaint of three or more householders, that a house in their immediate neighbourhood is used as a common brothel, or lodging-house for prostitutes or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, the Magistrate may summon the owner or tenant of the house to answer the complaint; and on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it; and if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of

twenty-five Rupees for every day thereafter that the house shall be so used.

Licenses for retail sale of spirituous or fermented liquors to be granted with concurrence of Magistrate.

VIII. Except as hereinafter provided, no license shall be granted by the Collector for the sale by retail of any spirituous or fermented liquors in any Hotel, Tavern, Punch-house, Ale-house, Arrack or Toddy-shop, or other place of public resort and entertainment, without the concurrence of the Magistrate. If a difference should arise between the Collector and the Magistrate respecting the grant of any such license, the case shall be reported to the Commissioner of Revenue and Circuit; and the decision of the Commissioner subject to the orders and control of the Lieutenant-Governor of Bengal, shall be final.

Revocation of license.

IX. Whenever any person, being the keeper of any such house or place of public resort and entertainment as aforesaid, is convicted of any of the offences specified in Section XLV., Act XXI. of 1856, the Magistrate may, if he think proper, apply to the Collector to revoke the license granted by him to such person; and upon such application the Collector shall forthwith revoke such license.

Penalty for owning or keeping or being employed in a gaming-house, &c.

X. Whoever being the owner or occupier, or having the use of any house, room, or place, keeps or uses the same as a common gaming-house; and whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be kept or used by any other person as a common gaming-house; and whoever has the care or management of or in any manner assists in conducting the business of any house, room, or place so kept or used; and whoever advances or furnishes money for the purposes of gaming with persons frequenting such house, room, or place—shall be liable to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labor, for any term not exceeding three months.

Penalty for being found playing in a gaming-house.

XI. Whoever is found in any such house, room, or place, playing or gaming with cards, dice, counters, money, or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake, or otherwise, shall

be liable to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labor, for any term not exceeding one month, and any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Magistrate may grant warrants to Police Officers to enter a gaming-house for the purpose of search and seizure.

XII. If the Magistrate, upon information on oath, and after such inquiry as he may think necessary; has reason to believe that any house, room, or place is used as a common gaming-house he may, by his warrant, give authority to any superior officer of police to enter with such assistance as may be found necessary, by night or by day, and by force, if necessary, any such house, room, or other place; and to take into custody all persons whom he finds therein, whether or not then actually gaming; and to seize all instruments of gaming and all moneys, and securities for money, and articles of value, reasonably suspected to have been used or intended to have been used for the purpose of gaming, which are found therein; and to search all parts of the house, room, or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody; and to seize and take possession of all instruments of gaming found upon such search.

On conviction for keeping a gaming-house, instruments of gaming to be destroyed, &c.

XIII. On conviction of any person for keeping any such common gaming-house, or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate, who may also order all or any of the securities for money, and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all moneys seized therein, to be forfeited; or, in his discretion, may order any part thereof be returned to the persons appearing to have been severally thereunto entitled.

Portion of fine may be paid to informer.

XIV. The Magistrate may direct any portion, not exceeding one fourth, of any fine which shall be levied under Sections X. and XI. of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under Section XIII. to be paid to an informer.

Gambling in the streets.

XV. A police officer may apprehend without warrant any person found gaming with cards, dice, counters, money, or other instruments of gaming, in any public street, place, or thoroughfare, and such person shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labor, for any term not exceeding one month; and such instruments of gaming and money shall be forfeited.

Pawn-brokers and money-changers to report stolen property under a penalty for neglect.

XVI. If any property regarding which written or printed information shall be given by any police officer to any pawn-broker or dealer in second-hand property or money-changer as having been stolen, embezzled, or fraudulently obtained, shall then be or thereafter come into the possession of or be offered in pawn or for sale or change to such pawn-broker, dealer, or money changer, he shall, without unnecessary delay, give information at the nearest police office, that certain property, answering the description of the said property, was offered to him, or is in his possession and shall also state the name and address given by the party by whom the same was offered, or from whom the same was received, under a penalty not exceeding fifty rupees for each and every such neglect or offence; provided always that, in the case of wearing apparel or other articles, which it may be difficult for such pawn-broker or dealer to trace out and indentify, no fine shall be eligible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawn-broker or dealer.

If stolen articles be altered or defaced by broker, after information of the theft, he shall be deemed a receiver of stolen goods.

XVII. If any pawnbroker or dealer in second-hand goods, or worker in gold or silver, after receiving information of the theft, or the embezzling, or the fraudulent disposal of any metals, goods, or articles of whatsoever description, melts, alters, defaces, or puts away the same, or causes the same to be melted, altered, defaced, or put away, without having previously received the permission of the Magistrate, and it shall be found that such metals, goods, or articles were stolen, embezzled, or fraudulently disposed of by the person from whom such pawn-broker, dealer, or worker received the same, or by any other person, then and in such case it shall be held that such pawn-broker,

dealer, or worker knew that such metals, goods, or articles were stolen, embezzled, or fraudulently disposed of; and such pawnbroker, dealer, or worker shall be proceeded against according to law as a receiver of stolen goods, or, as being a party to the fraud, and punished accordingly; and no other evidence of his guilt shall be necessary than evidence of such melting, altering, defacing, or putting away, after receiving information as aforesaid.

Manufacture or possession of Gunpowder.

XVIII. Whoever manufactures Gunpowder, or, without a license from the Magistrate, has in his possession, in any house, shop, warehouse, or other building, at any one time, a greater quantity of Gunpowder than ten pounds, shall be liable to a fine not exceeding two hundred rupees, and also to forfeit such Gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Licenses by Magistrate or sale and deposit of Gunpowder, &c.

XIX. The Magistrate may grant to any person a license for the sale or keeping in deposit of any quantity of Gunpowder not exceeding fifty pounds, on such conditions, and for such term, not exceeding one year, as shall be specified in the license; and any person who shall be guilty of a breach of any such conditions, shall be liable to a fine not exceeding one hundred rupees, and to forfeit all Gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also to forfeit his license.

Penalty for drunkenness or riotous or indecent behaviour in public.

XX. Whoever is found drunk and incapable of taking care of himself, or is guilty of any riotous or indecent behaviour in any street or thoroughfare, or in any place of public amusement or resort, and whoever is guilty of violent behaviour in any police office shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labor, for a term not exceeding fourteen days.

Penalty for committing a nuisance in streets.

XXI. Whoever wilfully and indecently exposes his person, or commits a nuisance, by easing himself in or by the side of or near to any public street, or thoroughfare or place, shall be liable to a fine not exceeding ten rupees, or, in default of payment thereof, to imprisonment, with or without hard labor, for a term not exceeding fourteen days.

Beggars.

XXII. Whoever in any public road, street, thoroughfare, or place, begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity, with the object of exciting charity, or of obtaining alms; or whoever seeks for or obtains alms, by means of any false statement or pretences—shall be liable to imprisonment, with or without hard labor, for any term not exceeding one month.

Penalty for the following offences in public streets, &c.

XXIII. Whoever, in any public street, road, throughfare, or place of public resort, commits any of the following offences, shall be liable to a fine not exceeding twenty rupees:—

Furious or negligent driving or riding.

1. Whoever drives or rides any animal, or drives any vehicle, in a manner so rash or negligent as to indicate a want of due regard for the safety of others.

Letting loose horses, ferocious dogs, &c.

2. Whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry, or put in fear any person, horse, or other animal.

Leaving cart, &c., without control.

3. Whoever being in charge of a cart, carriage, or horse, leaves it at such a distance as not to have the same under due control. [Amended by Act I., 1864, of the Bengal Council, as regards the drivers of Hackney Carriages under such Act, in the town and suburbs of Calcutta.]

Obstruction to passengers by fastening animals.

4. Whoever fastens any animal so as to cause obstruction or danger to passengers.

Ill-treating animals.

5. Whoever cruelly beats, abuses or tortures any animal.

Lighting fires and discharging guns, fire-works, &c.

6. Whoever sets fire to or burns any straw or other matter, or lights any bon-fire, or wantonly discharges any fire-arm, or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon.

Beating drums, tom-toms, &c.

XXIV. Within such parts of the said suburbs or station as shall be from time to time defined by the Magistrate with the sanction of the Lieutenant-Governor of Bengal, whoever beats a drum or tom-tom, or blows a horn or trumpet, or beats or sounds any metal instrument or utensil, between the hours of ten at night and four in the

morning, in any public street, road, or thoroughfare, so as to disturb the repose of the inhabitants, except when permitted by the Magistrate on occasions of festivals and ceremonies, shall be liable to a fine not exceeding twenty rupees.

Depositing dirt on street, &c.

XXV. Whoever deposits, or permits his servants to deposit, any dust, dirt, dung, ashes, garden, kitchen, or stable refuse, or filth of any kind, or any animal matter, or any broken glass or earthenware, or other rubbish, in any street, or on any public quay, jetty, ghaut, or landing place, except in such places and in such manner, and at such hours, as shall be fixed by the Magistrate; or throws or puts, or permits his servant to throw or put, any such substances into any public sewer or drain, or into any drain communicating therewith, shall be liable to a fine not exceeding ten rupees. [See Note at end of Act.]

Allowing sewage to flow on streets.

XXVI. Whoever causes or allows the water of any sink or sewer, or any other offensive liquid matter belonging to him or being on his land, to run, drain, or be thrown or put upon any street, or causes or allows any offensive matter from any sewer or privy to run, drain, or be thrown into a surface drain in any street, shall be liable to a fine not exceeding ten rupees. [See Note at end of Act.]

Future obstructions in streets or roads.

XXVII. Whoever builds any wall, or erects or sets up any fence, rail, post, or other obstruction or encroachment, in any public street or road, or in or over any open drain, sewer, or aqueduct along the side of any such street or road, after the passing of this Act, shall be liable to a fine not exceeding one hundred rupees; and the Magistrate shall have power to remove any such obstruction or encroachment, and the expense of such removal shall be paid by the persons erecting the same, and shall be recoverable as hereinafter provided. [See Note at end of Act.]

Power to remove.

Taking up pavement.

XXVIII. Whoever displaces, takes up, or makes any alteration in the pavement or other materials, or in the fences or posts of any public street, without the consent in writing of the Magistrate, or without other lawful authority, shall be liable to a fine not exceeding fifty rupees. [See Note at end of Act.]

Future projections from houses to be removed.

XXIX. The Magistrate may give notice in writing to the owner or occupier of any house or building to remove or alter any projection, encroachment, or obstruction, which, after the passing of this Act, shall be erected or placed against or in front of such house or building, if the same overhangs, or juts into, or in any way projects or encroaches upon, or is an obstruction to the safe and convenient passage along any public street, or obstructs or projects or encroaches into or upon any uncovered aqueduct, drain, or sewer in such street; and such owner or occupier shall within fourteen days after the service of such notice upon him, remove such projection, encroachment, or obstruction, or alter the same in such manner as shall have been directed by the Magistrate; and in default thereof, shall be liable to a fine not exceeding two hundred rupees; and the Magistrate in such case may remove such projection, encroachment, or obstruction; and the expense of such removal shall be paid by the owner or occupier so making default, and shall be recoverable as hereinafter provided. [See Note at end of Act.]

Removal of existing projections from houses.

XXX. The Magistrate may cause any such projection, encroachment, or obstruction erected or placed against or in front of any house or buildings in any public street before the passing of this Act, to be removed or altered as he shall think it: provided that he give notice of such intended removal or alteration to the occupier of the house or building against or in front of which such projection, encroachment, or obstruction shall be, thirty days before such alteration or removal is begun: and if such projection, encroachment, or obstruction shall have been lawfully made, he shall make reasonable compensation to every person who suffers damage by such removal or alteration. [See Note at end of Act.

Notice of Removal.

Compensation, when to be made.

Houses projecting beyond line of street when taken down to be set back.

XXXI. When any house or building, any part of which projects beyond the regular line of a public street, or beyond the front of the house or building on either side thereof, has been taken down in order to be re-built or altered, the Magistrate may require the same to be set back to or towards the line of

the street or the line of the adjoining houses or buildings, and shall make reasonable compensation to the owner of any such house or building for any damage he may thereby sustain. If any dispute shall arise touching the amount of compensation to be allowed under this or the preceding section, the same shall be settled in the manner provided by the laws in force for the settlement of disputes respecting compensation for lands taken for public purposes. [See Note at end of Act.]

Power to trim hedges and trees bordering roads.

XXXII. The Magistrate may give notice to the owner or occupier of any land, to cut and trim any hedges and trees overhanging any public road or street so as to obstruct the passage or to cause damage thereto; and in the event of such notice not being complied with within eight days from the date thereof, the Magistrate may cause the said edges and trees to be cut and trimmed in the manner required; and the expenses incurred by the Magistrate in respect thereof shall be paid by the owners, and shall be recoverable as hereinafter provided. [See Note at end of Act.]

Houses in a ruinous and dangerous state.

XXXIII. If in any street, any house, building, or wall, or any thing affixed thereon, be deemed by the Magistrate to be in a ruinous state, or likely to fall, or in any way dangerous to the inhabitants of such house or building, or to the neighbouring houses or buildings, or the occupiers thereof, or to passengers, he may cause notice in writing to be given to the owner, if he be known and resident within the limits of his jurisdiction, and may also cause such notice to be put on the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof (if any), requiring such owner or occupier forthwith to take down, secure, or repair such house, building, wall, or thing affixed thereon, as the case shall require; and if such owner or occupier do not begin to repair, take down, or secure the same within three days after such notice, and complete such work with due diligence, the Magistrate may cause all or so much of such house, building, wall, or thing, as he shall think necessary, to be taken down, repaired, or otherwise secured; and all the expenses shall be paid by the owner of the premises, and shall be recoverable from him as hereinafter provided. [See Note at end of Act.]

Sale of materials of ruinous houses.

XXXIV. If any such house, building, or wall, or any part of the same, be pulled down by virtue of the powers aforesaid, the Magistrate may sell the materials thereof, or of so much of the same as shall be taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore any overplus arising from such sale to the owner of such house, building, or wall on demand. The Magistrate, although he sell such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale, as by this Act are given to him for compelling the payment of the whole of the said expenses. [See Note at end of Act.]

Penalty on occupier of a house not removing filth.

XXXV. Whoever, being the occupier of a house in or near any street, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth, or any noxious or offensive matter, in or upon the roof of such house, or in any out-house, yard, or ground attached to and occupied with such house, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth therefrom, and to cleanse and purify the same, shall be liable to a fine not exceeding Fifty Rupees. [See Note at end of Act.]

Filthy houses, &c.

XXXVI. Whoever, being the owner or occupier of any house, building, or land, in or near any street, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or over-grown with rank and noisome vegetation, shall be liable to a fine not exceeding Fifty Rupees, and to a fine not exceeding Five Rupees for every day after conviction for such offence during which the offence is continued. [See Note at end of Act.]

Penalty for keeping sheep-pen, &c., in a filthy state.

XXXVII. Whoever, being the owner or keeper of any cattle, sheep, or pigs, suffers the stall, pen, or place in which they are kept, in or near any street, to be in a filthy or noxious state, or neglects to employ proper means to remove the filth therefrom, shall be liable to a fine not exceeding Twenty Rupees. [See Note at end of Act.]

Licensing of public necessaries.

XXXVIII. The Magistrate may license such necessaries for public accommodation as he, from time to time, may think proper; and whoever keeps any public necessary without such license or, having a license for a public necessary, suffers the same to be in a filthy or noxious state, or neglects to employ proper means for cleansing the same, shall be liable to a fine not exceeding fifty Rupees; and the license may be cancelled. [See Note at end of Act.]

Penalty for keeping private drain, &c., in improper state.

XXXIX. Whoever, being the owner of any private drain privy, or cesspool, neglects or refuses, after warning from the Magistrate, to keep the same in a proper state, shall be liable to a fine not exceeding fifty Rupees. [See Note at end of Act.]

Fouling water by bathing.

Washing.

Throwing rubbish, &c.

Allowing drain water to flow into a public tank.

XL. Whoever bathes in any public tank, the water of which shall have been declared by the Magistrate to be appropriated to the domestic use of the inhabitants; or washes or causes to be washed therein, any house dog, or other animal, or any wool, cloth, or wearing apparel, or any utensils for cooking or other purposes, or leather, or the skin of any animal, or other foul or offensive thing; or throws, puts, or casts, or causes to enter therein, any animal, or any gravel, stone, dust, or rubbish, or any dirt, filth, or other noisome or offensive matter or thing; or causes or suffers to run, drain, or to be brought thereunto, the water of any sink, sewer, drain, engine, or boiler, or any other unwholesome or offensive liquid matter or thing, belonging to him or flowing from any house or building or from any ground occupied by him; or does any thing whatsoever whereby any such water shall be in any degree fouled or corrupted, shall be liable to a fine not exceeding Fifty Rupees. [See Note at end of Act.]

Power to fill up unwholesome tanks on private premises.

XLI. When any tank or other excavation containing waste or stagnant water, the same being within any private enclosure appears, to the Magistrate to be injurious to health, or to be offensive to the neighbourhood, it shall be lawful for the Magistrate to require, by notice in writing, the owner of the premises to cleanse or fill up such tank or excavation; and if he do not begin to cleanse

or fill up the same within one week after such notice, and do not complete such work with due diligence, the Magistrate, his officers and workmen may enter into the said premises and do all necessary acts for the purpose aforesaid as he shall think fit; and the expense incurred thereby shall be paid by the owner of such premises, and shall be recoverable as hereinafter provided. [See Note at end of Act.]

Power to drain off and cleanse stagnant pools in open places.

XLII. The Magistrate may, from time to time, as he shall see fit, drain off into any sewers, and cleanse and fill up or otherwise abate, any stagnant pool, ditch, tank, pond, or other receptacle of water (the same not being within any private enclosure), which shall appear to him to be useless or unnecessary; or likely to prove injurious to the health of the inhabitants, whether the same be the private property of any person or otherwise. [See Note at end of Act.]

Penalty for not lighting deposits of building materials or excavations.

XLIII. No person intending to build, or take down, alter or repair any building, shall deposit any building materials, or make a hole in any street, without the permission of the Magistrate; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed until the materials are removed, or the hole is filled up or otherwise made secure; and shall cause the same to be sufficiently lighted during the night; and whoever deposits materials or makes a hole without such permission, or fails to fence or enclose and light such materials or hole, or does not remove such materials or fill up such when the permission has been withdrawn, shall be liable to a fine not exceeding fifty rupees, and a further fine not exceeding fifty rupees for every day while the offence is continued after twenty-four hours' notice from the Magistrate. [See Note at end of Act.]

Dangerous places near streets to be repaired or enclosed.

XLIV. If any building, tank, well, or hole, or other place, be, for want of sufficient repair, protection, or enclosure, dangerous to passengers, the Magistrate shall cause the same to be repaired, protected, or enclosed, so as to prevent danger therefrom; and the expenses of such repair, protection, or enclosure, shall be paid by the owner of the property so repaired, protected,

or enclosed, and shall be recoverable as hereinafter provided. [See Note at end of Act.]

Penalty for establishing a slaughter-house without license after passing of Act.

XLV. No place, which is not used as a slaughter-house at the time of the passing of this Act, shall be so used without a license in writing from the Magistrate: and whoever uses as a slaughter-house any place not so used at the time of the passing of this Act, without such license, shall be liable to a fine not exceeding one hundred rupees, and a fine not exceeding fifty rupees for every day after the conviction for such offence during which the said offence is continued. [See Note at end of Act.]

Penalty for keeping slaughter-house in improper state.

XLVI. Every owner or occupier of any slaughter-house, or of any market or shop for the sale of butcher's meat, fish or vegetables, shall keep the same in a cleanly and proper state, and shall admit at all reasonable hours any person authorised by the Magistrate to enter and inspect the same; and the owner or occupier of any such slaughter-house, market, or shop, which shall not be kept in a cleanly and proper state, shall be liable for every default to a a fine not exceeding twenty rupees. [See Note at end of Act.]

Penalty for establishing offensive and dangerous trades within certain limits.

XLVII. Within the limits which shall be prescribed for the purposes of this Section by the Lieutenant-Governor of Bengal, no place shall be newly used, except under license from the Magistrate, for any of the following purposes; namely, for melting tallow—for boiling offal or blood—or as a soap house—oil-boiling house—dyeing house—tannery—brick, pottery, or lime kiln—sago manufactory—or other manufactory or place of business from which offensive or unwholesome smells arise—or as a yard or depot for hay, straw, wood or coal; and whoever, without a license, uses any such place for such purpose, shall be liable to a fine not exceeding two hundred rupees, and a fine not exceeding 50 rupees for every day after the conviction for such offence during which the said offence is continued. [See Note at end of Act.

No burial or burning place henceforth to be constructed without leave of Magistrate.

XLVIII. No burial or burning ground, whether public or private, shall be made or formed, after the passing of this Act, otherwise than by or under the authority of the Lieutenant-Governor of Bengal, without a license from

the Magistrate: and whoever shall bury, or burn, or cause, permit, or suffer to be buried, or burned, any corpse in any burial or burning ground, made or formed without such license, shall be liable to a fine not exceeding two hundred rupees. [See Note at end of Act.]

Magistrate may order certain burial or burning places to be closed.

XLIX. If, upon the evidence of competent persons, it shall appear to the Magistrate that any burial or burning ground is in such a state as to be dangerous to the health of persons living in the neighbourhood thereof, and also that a convenient place for interment or burning, as the case may be, exists within a convenient distance, and is available, the Magistrate, with the sanction of the Lieutenant-Governor of Bengal previously obtained, may, by notification to be affixed on some conspicuous part of the ground, appoint a time, not being less than two months, for the closing of such burial or burning ground; and whoever, after the time so appointed, buries or burns, or causes or permits to be buried or burned, any corpse therein, shall be liable to a fine not exceeding one hundred rupees. [See Note at end of Act.]

Penalty for burying or burning in such places.

Stray dogs to be killed at certain appointed periods.

L. It shall be lawful for the Magistrate, by order in writing to be affixed at the principal police stations and also to be published in some public newspaper, to appoint from time to time certain periods within which any dogs found straying in the streets or beyond the enclosures of the owners of such dogs, may be destroyed.

Police officer may arrest without warrant, on view of offence.

LI. Any police officer may arrest without a warrant any person committing in this view any offence against this Act, if the name and address of such person be unknown to him.

Police officer may take into custody, without warrant, persons charged with aggravated assault recently committed.

LII. Any police officer may take into custody, without a warrant, any person who is charged with committing an aggravated assault, in every case in which he shall have good reason to believe that such assault has been committed, although not in his view, and that, by reason of the recent commission of the offence, a warrant could not have been obtained for the apprehension of the offender.

Persons taken into custody by a police officer without warrant may be detained in police office until brought before Magistrate or bailed.

LIII. Every person taken into custody without a warrant by a police officer under this Act shall be taken to the nearest police office, in order that such person may be detained until he can be brought before the Magistrate, or until he shall enter into recognizances, with or without sureties, for his appearance before the Magistrate. Any person so detained and not entering into recognizances shall be carried before the Magistrate within twenty-four hours from the time of his being taken into custody.

Procedure on information or complaint laid before the Magistrate of an offence against this Act.

LIV. Upon any information or complaint laid before the Magistrate of any offence committed against this Act, the Magistrate may summon the person charged to appear at a time to be mentioned in the summons, or if he see sufficient cause for so doing, may issue a warrant for his apprehension. The provisions of the general Regulations of the Bengal Code and Acts of the Government of India for the time being in force relative to the issue and service of summonses and warrants to the summons, attendance, and examination of witnesses, and generally to the trial of cases, to the recovery of fines and penalties, and to appeals against orders and sentences passed by a Magistrate, shall be applicable to all cases under this Act. Provided that, in all cases of offences punishable with fine only, if after due service of summons the person charged shall not appear in persuance thereof, the Magistrate, at his discretion, may hear and determine the case in his absence. Provided also, that no appeal shall lie from any order of a Magistrate passed, with the sanction of the Lieutenant-Governor of Bengal, under section XLIX. of this Act.

Recovery of costs or expenses.

LV. In all cases where any costs or expenses are by this Act directed to be paid, the amount of the same shall be ascertained and determined by the Magistrate, and the Magistrate may, for the purpose, summon the parties and examine them and the witnesses on their behalf and such amount, together with the costs of the enquiry, shall be recoverable in the same manner as fines may be recovered.

Jurisdiction.

LVI. Any Joint Magistrate or Deputy Magistrate, duly authorised to exercise the powers of a Magis-

trate, and any assistant vested with special powers, may, in cases referred to him by the Magistrate, exercise all the powers vested in a Magistrate by this Act.

Application of fines.

LVII. All fines imposed and levied under his Act shall be applied in aid of any fund applicable to Police and Conservancy purposes in the said suburbs or station; and all costs and expenses which the Magistrate is hereby authorised to incur, shall be paid from and repaid to such fund; or if there be no such fund, all such fines as aforesaid shall be applied by the Magistrate to the cleansing or otherwise improving of the said suburbs or station.

Act to supersede the provisions of Act XXI. of 1841.

LVIII. With respect to all matters expressly provided for by this Act and within the limits subject to the same, the provisions of this Act shall be held to supersede the provisions of Act XXI. of 1841.

Interpretation.

LIX. In the construction of this Act, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; words importing the masculine gender shall include females.

SCHEDULE.

Of places included in the suburbs of Calcutta and Station of Howrah.

Suburbs of Calcutta.

The Villages composing the Government Estate of Punchanogram and all lands belonging to any other estate which are situate within the general limits of the said Government Estate.

Garden Reach or Moocheekhola. Ramnugger. Singeratee. Indree. Sonaie. Borrberiah. Rajahrampoor. Bhookylas. Dukhin Sherepoor. Kidderpoor. Bykantpoor. Adee Gunga Chur. Ramchunderpoor. Ekbalpoor. Mominpoor. Balrampoor. Alleepoor. Jeeraut. Radhanuggur. Gopalnuggur. Doorgapoor. Chetla. Jarool. Dowlutpoor. Sonadanga. Manjrat. Moyapoor. Shurhurpoor.

STATION OF HOWRAH.

Howrah, (including) Punchanuntolla. Jolapara. Chandmary (with Tandal Bagan.) North Bettra. South Bettra. Ichapoor. Saumpoor. Gholadanga. Ramkistopoor. Khoorut (with Kasondia.) Chuckerbair. Santragatchee. Sathghurra. Godar Hat (with Kinkur Chatterjea's Hat) Battore. Seebpoor. (with Baje Seebpoor, Majairhat, Bhurpara, Battatolla, Sreehurrynowpara, Bishop's College, and Company's Botanical Garden.) Puddopookhur. South Baxara. North Baxara. Sulkeah, including Bandaghat (with Hurrogunge and Banerjeaparah.) Ghoosery (with Bhat Bagan.) Malipanchghura. Barrackpoor. Belloore. Nukhsah. Chuckpara. Nellooah. Belgatchia (with Paikan Belgatchia.) Bamungutchee. Chowrasta (with Dhurmtolla, Goghatta, and Baboodanga.) Golabarry (with Pheelkhana.)

By Act III., 1864, of the Bengal Council, Section 25 to 49, inclusive, are to cease to have effect in every place to which that Act shall be extended.

THE BOMBAY UNIVERSITY.

ACT No. XXII. OF 1857.

[*Received the Assent of the G. G. on the* 18*th July*, 1857.

Recites expediency of establishing and incorporating an University at Bombay for the purpose of encouraging all classes in pursuit of a regular education, and of ascertaining those who have acquired proficiency, and of marking such proficiency by Academical Degrees and other proportionate marks of honor.

1. Appoints the first Chancellor, Vice-Chancellor and Fellows; and constitutes and declares them a Body Politic, with perpetual succession and a common seal, by the name of the University of Bombay, by which name they are required to sue and be sued.

2. Grants power to the University to hold and dispose of property.

3. Regulates the constitution of the University and of its Senate, and provides that any member leaving India permanently shall vacate his office.

4. The Chancellor to be the Governor of Bombay for the time being.

5. The office of Vice-Chancellor to be held only for two years, and vacancies in it to be filled up by the Governor from among the Fellows—with power to re-appoint the previous holder of the office.

6. The *ex-officio* Fellows to be the Chief Justice of Bombay, the Bishop of Bombay, the Members of Council, the Director of Public Instruction, the

Educational Inspector of the Presidency Division, and Principals of Government Colleges for the time being. The whole number of Fellows to be never less than 26, exclusive of the Chancellor and Vice-Chancellor, and to be kept up to that number by nominations on vacancies by the Governor, who may also nominate more than 26 persons.

7. Governor in Council may cancel the appointment of a Fellow by notification in the Gazette.

8. The Chancellor, Vice-Chancellor and Fellows to have the entire management of the affairs and property of the University, with full power to make and alter bye-laws, on all matters whatever regarding the University; such bye-laws however not to be binding till approved by the Governor in Council, reduced into writing and sealed with the common seal.

9. At meetings of the Senate, six Fellows to be a quorum; the majority of votes to decide, the Chairman to be the Chancellor or Vice-Chancellor or chosen by the majority of Fellows present, and to have a vote and a casting vote.

10. Chancellor, Vice-Chancellor and Fellows may appoint and remove all Examiners, Officers and Servants.

11. Regulates the conferring of Degrees and of marks of honor after examination and in accordance with the bye-laws laid down from time to time.

12. Candidates for Degrees not to be admitted without a certificate from an authorised Institution of having completed the course of instruction prescribed in the bye-laws.

13. Examinations for Degrees to be held at least once a year, and Examiner and subjects of examination to be appointed by the University for every such occasion.

14. Regulates the grant of Degrees.

15. The University, subject to the approbation of the Governor in Council, may charge fees for Degrees, and for admission into and continuance in the University, such fees to be carried to a General Fee Fund, and to be annually accounted for.

An Act to establish and incorporate an University at Bombay.

Preamble.

Whereas, for the better encouragement of Her Majesty's subjects of all classes and denominations within the Presidency of Bombay and other parts of India in the pursuit of a regular and liberal course of education, it has been determined to establish an University at Bombay for the purpose of ascertaining, by means of examination, the persons who have acquired proficiency in different branches of Literature, Science, and Art, and of rewarding them by Academical Degrees as evidence of their respective attainments, and marks of honor proportioned thereunto; and whereas, for

effectuating the purposes aforesaid, it is expedient that such University should be incorporated, it is enacted as follows (that is to say):

Incorporation. I. The following persons, namely,

The Right Honorable JOHN, LORD ELPHINSTONE, Government of Bombay.

The Honorable SIR WILLIAM YARDLEY, Knight Chief Justice of the Supreme Court of Judicature at Bombay.

The Right Reverend JOHN HARDING, Doctor of Divinity, Bishop of Bombay, *Ex-officio.*

The Honorable SIR HENRY SOMERSET, Lieutenant-General, Knight Companion of the Most Honorable Order of the Bath, Commander-in-Chief of the Forces in Bombay, *Ex-officio.*

The Honorable JAMES GRANT LUMSDEN, Member of the Council of Bombay, *Ex-officio.*

The Honorable ARTHUR MALET, Member of the Council of Bombay, *Ex-officio.*

EDWARD IRVINE HOWARD, Esquire, Director of Public Instruction, *Ex-officio.*

ROBERT HAINES, Esquire, M.D., Acting Educational Inspector, Presidency Division, *Ex-officio.*

C. MOREHEAD, Esquire, M.D., Principal of the Grant Medical College, *Ex-officio.*

JOHN HARKNESS, Esquire, LL.D., Principal of the Elphinstone College, *Ex-officio.*

The Reverend JAMES MCDOUGALL, Acting Principal of the Poona College, *Ex-officio.*

PHILIP WILLIAM LE-GEYT, Esquire, Member of the Legislative Council of India.

The Honorable SIR MATTHEW RICHARD SAUSSE, Knight, Puisne Judge of the Supreme Court of Judicature at Bombay.

SIR JAMSETJEE JEEJEEBHOY, Knight.

METCALFE LARKEN, Esquire, Judge of the Sudder Court in Bombay, and President of the late Board of Education.

JUGGONAUTH SUNKERSETT, Esquire,
Member of the late Board of Education.

BOMANJEE HORMOSJEE, Esquire,
Member of the late Board of Education.

BHAO DAJEE, Esquire,
Graduate of the Grant Medical College,
Member of the late Board of Education.

MATTHEW STOVELL, Esquire,
Surgeon in the Bombay Army,
Secretary to the late Board of Education.

CLAUDIUS JAMES ERSKINE, Esquire,
Civil Service, late Director of Public Instruction.

WILLIAM EDWARD FRERE, Esquire,
Member of the Royal Asiatic Society, and President of the Bombay Branch of the Royal Asiatic Society,
Judge of the Sudder Court in Bombay.

Major-General CHARLES WADDINGTON,
Companion of the Most Honorable Order of the Bath,
Chief Engineer of Public Works.

The Reverend JOHN WILSON,
Doctor of Divinity, Fellow of the Royal Society,
Honorary President of the Bombay Branch of the Royal Asiatic Society.

The Reverend PHILIP ANDERSON,
Master of Arts, Chaplain on the Bombay Establishment.

HENRY BARTLE EDWARD FRERE, Esquire,
Commissioner in Scinde.

Lieutenant EDWARD FREDERICK TIERNY FERGUSSON,
Indian Navy.

Mahomed YUSOOF MOORGAY,
Cazee of Bombay.

JAMES JOHN BERKLEY, Esquire,
Fellow of the Geographical Society, M. I. C. E.,
President of the Bombay Mechanics' Institution, and Chief Resident Engineer of the Great Indian Peninsular Railway Company.

HENRY LACON ANDERSON, Esquire,
Secretary to Government,

being the first Chancellor, Vice-Chancellor, and Fellows of the said University, and all the persons who may hereafter become or be appointed to be Chancellor, Vice-Chancellor, or Fellows, as hereinafter mentioned, so long as they shall continue to be such Chancellor, Vice-Chancellor, or Fellows, are hereby constituted and declared to be one Body Politic and Corporate by the name of the University of Bombay; and such Body Politic shall by such name have perpetual succession, and shall have a common seal, and by such name shall sue and be sued, implead and be impleaded, and answer and be answered unto, in every Court of Justice within the territories in the possession and under the government of the East India Company.

Power to hold and dispose of property.

II. The said Body Corporate shall be able and capable in law to take, purchase, and hold any property, moveable or immoveable, which may become vested in it for the purposes of the said University by virtue of any purchase, grant, testamentary disposition, or otherwise; and shall be able and capable in law to grant, demise, alien, or otherwise dispose of all or any of the property, moveable or immoveable, belonging to the said University; and also to do all other matters incidental or appertaining to a Body Corporate.

Construction of Body Corporate.

III. The said Body Corporate shall consist of one Chancellor, one Vice-Chancellor, and such number of *ex-officio* and other Fellows as the Governor of Bombay in Council hath already appointed, or shall, from time to time, by any order published in the "Bombay Gazette," hereafter appoint; and the Chancellor, Vice-Chancellor, and Fellows for the time being shall constitute the Senate of the said University. Provided, that, if any person being Chancellor, Vice-Chancellor, or Fellow of the said University, shall leave India without the intention of returning thereto, his office shall thereupon become vacant.

Senate.

Office vacated by leaving India.

Chancellor.

IV. The Governor of Bombay for the time being shall be the Chancellor of the said University, and the first Chancellor shall be the Right Honorable John, Lord Elphinstone.

V. The first Vice-Chancellor of the said University shall be Sir William Yardley, Knight. The office of Vice-Chancellor shall be held for two years only; and the Vice-Chancellor hereinbefore nominated shall go out of office on the First day of January, 1859. Whenever a vacancy shall occur in the office of Vice-Chancellor of the said University by death, resignation, departure from India, effluxion by of time, or otherwise, the Governor of Bombay in Council shall, notification in the "Bombay Gazette," nominate a fit and proper person, being one of the Fellows of the said University, to be Vice-Chancellor in the room of the person occasioning such vacancy. Provided that, on any vacancy in the said office which shall occur by effluxion of time, the Governor of Bombay in Council shall have power to reappoint the Vice-Chancellor hereinbefore nominated or any future Vice-Chancellor to such office.

Vice-Chancellor.

VI. The Chief Justice of Her Majesty's Supreme Court of Judicature, the Bishop of Bombay, the Members of the Council of Bombay, the Director or Acting Director of Public Instruction, the Educational Inspector or Acting Educational Inspector of the Presidency Division, the Principals and Acting Principals of Government Colleges, all for the time being shall, while filling such offices, be *ex-officio* Fellows of the said University. The whole number of the Fellows of the said University, exclusive of the Chancellor and Vice-Chancellor for the time being, shall never be less than twenty-six; and whenever the number of the said Fellows, exclusive as aforesaid, shall by death, resignation, departure from India, or otherwise, be reduced below twenty-six, the Governor of Bombay in Council shall forthwith, by notification in the "Bombay Gazette," nominate so many fit and proper persons to be Fellows of the said University, as, with the then Fellows of the said University, shall make the number of such Fellows, exclusive as aforesaid, twenty-six. But nothing herein contained shall prevent the Governor of Bombay in Council from nominating more than twenty-six persons to be Fellows of the said University if he shall see fit.

Fellows.

VII. The Governor of Bombay in Council may cancel the appointment of any person already appointed, or hereafter to be appointed a Fellow of the

The appointment of a Fellow may be cancelled.

University; and as soon as such order is notified in the "Gazette," the person so appointed shall cease to be a Fellow.

Chancellor, Vice-Chancellor, and Fellows to superintend the affairs of the University.

VIII. The Chancellor, Vice-Chancellor, and Fellows for the time being shall have the entire management of and superintendence over the affairs, concerns, and property of the said University; and in all cases unprovided for by this Act, it shall be lawful for the Chancellor, Vice-Chancellor, and Fellows to act in such manner as shall appear to them best calculated to promote the purposes intended by the said University. The said Chancellor, Vice-Chancellor, and Fellows shall have full power from time to time to make and alter any bye-laws and regulations (so as the same be not repugnant to law, or to the general objects and provisions of this Act) touching the examination for degrees and the granting of the same, and touching the examination for honors and the granting of marks of honor for a higher proficiency in the different branches of Literature, Science, and Art; and touching the qualifications of the candidates for degrees, and the previous course of instruction to be followed by them, and the preliminary examinations to be submitted to by them; and touching the mode and time of convening the meetings of the Chancellor, Vice-Chancellor, and Fellows; and, in general, touching all other matters whatever regarding the said University. And all such bye-laws and regulations, when reduced into writing, and after the common seal of the said University shall have been affixed thereto, shall be binding upon all persons, members of the said University, and all candidates for degrees to be conferred by the same, provided such bye-laws and regulations shall have been first submitted to and shall have received the approval of the Governor of Bombay in Council.

Bye-laws.

Meetings of the Senate.

IX. All questions which shall come before the Chancellor, Vice-Chancellor, and Fellows shall be decided at a meeting of the Senate by the majority of the members present; and the Chairman at any such meeting shall have a vote, and, in case of an equality of votes, a second or casting vote. No question shall be decided at any meeting, unless the Chancellor, or Vice-Chancellor, and five Fellows, or, in the absence of the Chancellor and Vice-Chancellor,

unless six Fellows at the least shall be present at time of the decision. At every meeting of the Senate, the Chancellor, or in his absence the Vice-Chancellor, shall preside as Chairman; and in the absence of both, a Chairman shall be chosen by the Fellows present, or the major part of them.

Appointment and removal of examiners and officers.

X. The said Chancellor, Vice-Chancellor, and Fellows for the time being shall have full power from time to time to appoint, and as they shall see occasion to remove, all examiners, officers and servants of the said University.

Power to confer degrees.

XI. The said Chancellor, Vice-Chancellor, and Fellows, shall have power, after examination, to confer the several degrees of Bachelor of Arts Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine and Master of Civil Engineering; they shall also have power, after examination, to confer upon the candidates for the said several degrees marks of honor for a high degree of proficiency in the different branches of Literature, Science, and Art, according to rules to be determined by the bye-laws to be from time to time made by them under the power in that behalf given to them by this Act.

Qualification for admission of candidates for degrees.

XII. Except by special order of the Senate no person shall be admitted as a candidate for the degree of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, or Master of Civil Engineering, unless he shall present to the said Chancellor, Vice-Chancellor, and Fellows, a certificate from one of the Institutions authorised in that behalf by the Governor of Bombay in Council to the effect that he has completed the course of instruction prescribed by the Chancellor, Vice-Chancellor and Fellows of the said University, in the bye-laws to be made by them under the powers in that behalf given by this Act.

Examination for degrees.

XIII. The said Chancellor, Vice-Chancellor, and Fellows shall cause an examination for degrees to be held at least once in every year; on every such examination the candidates shall be examined either by examiners appointed for the purpose from among the Fellows by the said Chancellor, Vice-Chancellor, and Fellows, or by

other examiners so to be appointed: and on every such examination the candidates whether candidates for an ordinary degree, or for a degree with honors, shall be examined on as many subjects and in such manner as the said Chancellor, Vice-Chancellor, and Fellows shall appoint.

Grant of degrees.

XIV. At the conclusion of any examination of the candidates, the examiners shall declare the name of every candidate whom they shall have deemed entitled to any of the said degrees, and his proficiency in relation to other candidates; and also the honors which he may have gained in respect of his proficiency in that department of knowledge in which he is about to graduate; and he shall receive from the said Chancellor a certificate, under the seal of the said University of Bombay and signed by the said Chancellor or Vice-Chancellor, in which the particulars so stated shall be declared.

Fees.

Annual accounts.

XV. The said Chancellor, Vice-Chancellor, and Fellows shall have power to charge such reasonable fees for the degrees to be conferred by them, and upon admission into the said University and for continuance therein, as they, with the appropriation of the Governor of Bombay in Council, shall from time to time see fit to impose. Such fees shall be carried to one General Fee Fund for the payment of expenses of the said University under the directions and regulations of the Governor of Bombay in Council, to whom the accounts of income and expenditure of the said University shall once in every year be submitted for such examination and audit as the said Governor of Bombay in Council may direct.

VOLUNTEER CORPS.

Act No. XXIII of 1857.

[*Received the assent of the G. G. on the* 18*th July*, 1857.

Recites that in consequence of the rebellion many loyal subjects have enrolled themselves with the sanction of Government as Military Corps, for the discipline of which it is necessary to make provision.

1. Members of Volunteer Corps to be subject to the Articles of War for the European Troops of the East India Company, so far as applicable to officers, but not to be punishable capitally.

2. The Commanding Officer, with the sanction of Government, may convene General Courts Martial for offences committed whilst on actual duty.

3. General Courts Martial to consist of at least 13 members, who need not be officers.

4. The Commanding Officer may convene Regimental Courts Martial of not less than 3 members.

5. Courts Martial to be conducted according to the same laws and customs as Courts Martial held under the said Articles of War.

6. Officer or private may, except whilst on actual duty, quit the Corps after 7 days' previous notice in writing.

7. Commissions to Officers to cease on their retirement or dismissal.

8. Arms, &c., furnished at the public expense to be delivered up to the Commanding Officer on retirement, dismissal or disbandment or whenever demanded.

9. No member bound to serve beyond four miles from the place of enrolment unless in accordance with the terms on which his Corps was constituted.

10. The Commanding Officer to frame rules for regulating the time and manner of discharging the duties of the Corps.

11. A fine of 100 rupees, or simple dismissal, or dismissal as unworthy—for wilful neglect to attend actual duty other than drill or parade—may be inflicted by General Court Martial.

12. A fine of 50 Rupees may be inflicted by Regimental Court Martial for non-attendance on drill or parade or other minor Military offence.

13. A member not paying the fine within the period fixed may be dismissed by the Commanding Officer.

14. A fine imposed by Court Martial to be deemed a judgment and enforced under Acts XXXIII., 1852, and XXXIV., 1856.

15. Every mounted Officer and orderly and member of a troop of Cavalry to be entitled to keep one horse free from tax.

16. Any member while on duty may disarm any person (not being a soldier, sailor, or police-man), carrying arms in any public place without a pass, and may arrest such person and deliver him to the police.

17. Any member on duty may prevent a disturbance of the public peace, disperse unlawful assemblies, and apprehend suspicious persons.

18. Imposes a fine of not more than 200 Rupees, or imprisonment for not more than 6 months, for resistance to a member of a Volunteer Corps in the execution of his duty.

19. Interprets the word "Magistrate."

20. Regulates the enrolment of Volunteer Corps in the other Presidencies and Provinces.

21. Suit not to be brought without a month's notice in writing, nor after tender of amends or expiration of 3 months.

22. Indemnity for acts done previously to the passing of this Act.

23. Certificate of commanding officer to be *primâ facie* evidence of enrolment.

24. The Government empowered to disband Corps or remove members.

25. Act not to extend to Volunteers in pay.

An Act to provide for the good order and discipline of certain Volunteer Corps, and to invest them with certain powers.

Preamble.

Whereas, in consequence of the rebellion and disturbances which unhappily exist in many parts of the British Territories in India, many loyal subjects of Her Majesty have volunteered their services for the protection of life and property and the preservation of the peace and have, with the sanction of Government, associated and enrolled themselves as Military Corps under the command of Officers appointed for that purpose; and it is necessary to provide for the good order and discipline of such Corps and to invest them with certain powers, it is enacted as follows:

Members of Volunteer Corps to be subject to the Articles of War for the European Troops of the East India Company, so far as they are applicable to Officers, and consistent with this Act.

I. Every member of any such Corps, or of any other Corps which may be associated or enrolled with the sanction of the Governor General in Council or otherwise according to the provisions of this Act, shall, for all Military offences of which he shall be guilty whilst on actual duty or on parade, be subject to the Articles of War for the European Officers and Soldiers of the East India Company, so far as the same are applicable to Officers, and consistent with the provisions of this Act. Provided that no such person shall for any offence against the said Articles be subject to the punishment of death.

Proviso.

Appointment of and sentences by general Courts Martial.

II. General Courts Martial shall be convened and appointed by the Commanding officer of the Corps with the sanction of the Governor General of India in Council, for the trial of Military offences of which any number of such Corps shall be guilty whilst on actual duty; and no sentence of such Court Martial shall be put into execution until after a report of the whole proceedings shall have been made to, and the sentence shall have been confirmed by the Governor General in Council. The Governor General in Council may commute any such sentence for a less punishment, or pardon the offender.

III. General Courts Martial shall consist of not less than thirteen members of the Corps; and every member of the Corps, whether an Officer or not, shall be competent to sit and act as a member of such Court Martial.

General Courts Martial of whom to be composed.

IV. Regimental Courts Martial may be convened by the Commanding Officer of the Corps, and shall consist of not less than three members of the Corps.

Regimental Courts Martial.

V. The proceedings of Courts Martial convened under this Act shall be conducted according to the laws and customs applicable to Courts Martial held under the said Articles of War for the European Officers and Soldiers of the East India Company, except so far as the same are inconsistent with the provisions of this Act.

Mode of conducting proceedings of Courts Martial held under this Act.

VI. Any person enrolled as a member of such Corps, whether he shall have been elected or commissioned as an Officer in such Corps or not, may, except whilst on actual duty, quit the Corps upon giving to the Officer commanding the Corps seven days' previous notice in writing of his intention so to do, or without such notice if the Commanding Officer of the Corps shall consider it reasonable to allow him so to do.

Members not on actual duty may quit the Corps after seven days previous notice in writing, or without notice if allowed by the commanding Officer.

VII. Every Commission to any member of such Corps appointing him an Officer in such Corps shall cease upon the retirement or dismissal of such member from the Corps.

Commissions to Officers to cease on their retirement or dismissal.

VIII. Every person who shall have received any arms, ammunition, accoutrements, or uniform belonging to Government, or which shall have been furnished from the public stores or at the public expense, shall, upon his quitting such Corps, or upon his dismissal therefrom, or whenever he shall be required so to do by the Commanding Officer of the Corps, or whenever the said Corps shall be disbanded, deliver up to the Commanding Officer or such person as he shall appoint to receive the same, all such arms, ammunition, accoutrements, and uniform in good order and condition, reasonable wear thereof only excepted; and in default thereof he shall pay such sum of money as shall be

Delivery of arms belonging to Government by members quitting the Corps.

adjudged by a Regimental Court Martial to be assembled for that purpose by the Commanding Officer of the Corps, which adjudication shall be deemed a judgment, and may be enforced by any Court of civil jurisdiction under the provisions of Acts XXXIII. of 1852, and XXXIV. of 1855.

No member bound to serve beyond certain distance.

IX. No member of such Corps shall be bound without his consent to serve or proceed on duty beyond the limits within which he shall have voluntarily engaged to serve or proceed on duty in accordance with the terms upon which the Corps to which he belongs shall have been constituted; and in case no such limits shall have been fixed, he shall not be liable to serve or proceed on duty beyond four miles from the place at which he was enrolled.

Commanding Officer to frame rules which shall be binding on the members.

X. The Commanding Officer of the Corps may frame such general rules as he may think fit for regulating the times at which and the manner in which the duties of the Corps and of the several members or detachments thereof shall be discharged; and such rules, when sanctioned by the Governor General in Council, shall be binding on the Corps and on the several members thereof.

Punishment for not attending actual duty other than drill or parade when warned for the same.

XI. If any Member of such Corps, being warned for actual duty other than drill or parade, shall without reasonable excuse neglect to attend such duty, he shall be liable, upon conviction by a General Court Martial, to a fine not exceeding one hundred rupees, or to simple dismissal from the Corps, or to dismissal from the Corps as unworthy to belong to it.

Punishment for not attending drill or parade, or other Military offence punishable with fine.

XII. If any Member of such Corps shall, without reasonable excuse, neglect to attend drill or parade at such times as may be appointed for that purpose, or shall be guilty of any neglect of duty or other Military, offence which in the judgment of the Commanding officer of the Corps will be sufficiently punished by a small fine, he shall be liable to pay such sum, not exceeding fifty rupees, as a Regimental Court Martial shall adjudge.

Punishment for non-payment of fine.

XIII. In case any member of such Corps shall neglect or refuse to pay any fine to which he shall be sentenced by any Court Martial, within such

time as shall be fixed by the Commanding Officer of the Corps, he may be dismissed by the said Commanding Officer from the said Corps: and every dismissal shall be recorded and reported to the Governor General in Council.

Recovery of fines.

XIV. Every sentence of a Court Martial, by which a fine shall be imposed, shall be deemed a judgment, and may be enforced by any Court of civil jurisdiction under the provisions of Acts XXXIII. of 1852, and XXXIV. of 1855.

Exemption from horse tax.

XV. Every mounted Officer and every mounted orderly of such Corps, and every member of such Corps, for the time during which he shall belong to a troop of Cavalry in such Corps, shall be at liberty to keep one horse without being liable to pay in respect thereof any tax imposed upon horses.

Power to disarm persons.

XVI. It shall be lawful for any member of such Corps, whenever he may be in discharge of his duty as the member of the Corps and wheresoever he may then be, to disarm any person, not being in the Military or Naval service of the Queen or of the East India Company or a police officer, who shall be found between sun-set and sun-rise in any public street, thoroughfare, or other public place, armed with a sword, spear, gun, or other fire-arms or warlike instruments without a pass or license for that purpose from the Commissioner of Police or other Officer authorised by Government to grant such pass; and also to disarm any person who may be found armed at any time contrary to law or to any order of Government in any public street, thoroughfare, or other public place; and also to apprehend and deliver over to a police officer any person so found armed in order that he may be dealt with according to law; and the weapon so seized shall be forfeited to Government or otherwise dealt with according to law or to the orders of Government.

Also to prevent disturbances of the public peace, to disperse unlawful assemblies, and to apprehend certain suspected persons.

XVII. It shall also be lawful for any member of such Corps, whenever he may be on duty, to prevent any disturbance of the public peace; and to disperse any persons whom he may find assembled together to the number of five or more without reasonable cause between sun-set and sun-rise in any

public street, thoroughfare, or other public place in which such member of the said Corps may be in the discharge of his duty, and also to apprehend any person against whom there shall be reasonable grounds to suspect that he has committed or is about to commit any offence against the State, or that he has aided or is about to aid any other person in the commission of such offence, or that he has incited or is about to incite any person or persons to mutiny or rebellion or other offence against the State; and to deliver him over to some police officer.

Penalty for assaulting or resisting members in execution of their duty.

XVIII. Whoever assaults or resists, or aids or assists any person in assaulting or resisting, or incites any person to assault or resist any member of such Corps in the execution of his duty, shall be liable, on conviction before a Magistrate or Justice of the Peace, to a fine not exceeding two hundred rupees or to imprisonment for any term not exceeding six calendar months with or without hard labor.

Interpretation of the word "Magistrate."

XIX. The word "Magistrate" shall include Magistrates of Police, Joint Magistrates, and persons exercising the powers of a Magistrate.

Enrolment of Volunteer Corps in the other Presidencies, &c.

XX. Corps may be enrolled in the Presidencies of Fort St. George and Bombay respectively, or if the Governor General in Council shall so order, in the Lieutenant-Governorship of Bengal, or in the Lieutenant-Governorship of the North-Western Provinces, or in the Punjab, or in the Provinces of Oude or Nagpore, or other place; and all powers hereby vested in and acts required to be sanctioned or confirmed by the Governor General of India in Council shall, as regards Corps enrolled in either of the Presidencies of Fort St. George or Bombay respectively, be exercised, sanctioned, or confirmed by the Governor in Council of such Presidency; and, if the Governor General in Council shall so order, may, as regards Corps to be enrolled within their respective jurisdictions, be exercised, sanctioned, or confirmed by the Lieutenant-Governor of Bengal, or the Lieutenant-Governor of the North Western Provinces, or by the Chief Commissioners of the Punjab and Oude respectively, or the Commissioner of Nagpore, or such other officer as the Governor General in Council shall authorise in that behalf.

Limitation of suits, &c.

XXI. No suit, action, or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without given to such person a month's previous notice in writing of the intended action and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of action or other proceeding.

Indemnity for acts done before the passing of this Act.

XXII. Every person who shall have been enrolled in any such Corps before the passing of this Act shall be entitled to the benefit and protection of this Act, and is hereby indemnified for all acts done by him in the discharge of his duty, which he would have been authorised to do by this Act, if it had been in force at the time.

Certificate of Commanding Officer to be evidence of enrolment.

XXIII. A certificate of enrolment in such Corps, signed by the Commanding Officer thereof, shall be *primâ facie* evidence of such enrolment without any further proof.

Power of Governor General to disband Corps or remove members.

XXIV. The Governor General in Council may disband any Corps enrolled under the provisions of this Act, or remove from the Corps any member thereof, whenever he shall think it necessary or proper so to do.

Act not to extend to Volunteers listed or mustered and in pay.

XXV. This Act shall not extend to any Volunteers listed or mustered and in pay.

PORT-DUES.

Act No. XXIV. of 1857.

[*Received the assent of the G. G. on the* 31*st July*, 1857.

Recites the approaching expiry of the period during which dues and fees can be collected at ports under Act XVI., 1856.

1. Authorises extension of the period for six months from the 13th August, 1857.

An Act to authorize the levy of Port-dues and fees at the present rates for a further period of six months.

Expired and several Acts passed since for Port-dues at different ports. See Note to Act XXII., 1855; and Act XXX., 1857, as to Port-dues at Calcutta; Act XXXI., 1857, as to Port-dues at Bombay; Act XXXV., 1857, at Moulmein, Rangoon, Kyook Phyoo, Akyab and Chittagong; Act XIII., 1857, enhanced Port-dues for Moulmein and Bassein; Act II., 1858, at Cuttack; Act VII., 1858, at Madras; and Act XXV., 1860, at Bassein.

NATIVE ARMY.—FORFEITURE FOR MUTINY.

ACT No. XXV. OF 1857.

[*Received the assent of the G. G. on the 8th August*, 1857.

Recites expediency of subjecting Native Officers and Soldiers convicted of Mutiny to forfeiture of all their property.

1. Native Officer or Soldier to forfeit all his property on conviction for Mutiny.

2. For any offence entailing forfeiture under this Act or Acts XI, XIV. or XVI of 1857, any Court which would have been competent to try the offender, if present, may, on proof, adjudge forfeiture against him in case of death or escape before conviction.

3. Forfeiture to extend to all property possessed by the offender at the time of, or subsequently to the commission of his offence; and to avoid all subsequent, or anterior fraudulent transfers, except *bonâ fide* subsequent transfers of negotiable securities.

4. Alienations of land subsequent to the passing of this Act to be void, unless made for valuable consideration or registered more than 3 months before the offence.

5. The Court may specify, in the conviction, the day of the commission of the offence.

6. The conviction or adjudication to be conclusive evidence of the offence and *primâ facie* evidence of its commission on the date charged, unless some other day be specially stated therein.

7. After conviction or adjudication, the Collector may take possession, or if necessary, produce a certified copy thereof, and petition the principal civil Court to determine summarily the right to possession. But a civil suit may be brought by the party cast within one year from date of such determination.

8. Forfeited property to be restored on proof of non-evasion of justice.

9. Proceedings taken on account of seizure to be instituted within one year from the date thereof.

10. Magistrate may attach, until trial or enquiry, property liable to forfeiture, and liable to be made away with.

11. Interprets the word "Magistrate."

An Act to render Officers and Soldiers in the Native Army liable to forfeiture of property for mutiny, and to provide for the adjudication and recovery of forfeitures of property in certain cases.

Preamble.

Whereas it is expedient to render Officers and Soldiers in the Native Army, who shall be convicted of mutiny, subject to the forfeiture of all their

property, and to provide for the adjudication and recovery of forfeitures in certain cases, it is enacted as follows:

Forfeiture of property on conviction of mutiny.

I. Every Officer and Soldier or other person subject to the Articles of War for the Native Army, who shall be convicted of mutiny, shall forfeit all his property of every description.

Adjudication of forfeiture in case of death or escape of offender before conviction of an offence for which property is liable to be forfeited.

II. If any person who shall have committed treason or any offence for which by this Act, or Act XI. of 1857, or Act XIV. of 1857, or Act XVI. of 1857, his property is declared to be forfeited, shall have been killed, or shall have died, or shall have escaped out of the Territories of the East India Company, before he shall have been convicted of the offence, or cannot after diligent search be found, any Court or other authority which might have tried such offender, if he could have been brought to trial, shall, upon the application of the Magistrate or other officer authorised by Government to make such application, hold an enquiry; and on proof that the person charged with having committed the offence was guilty thereof, and that he is dead, or has escaped out of the territories of the East India Company, or cannot after diligent search be found, shall adjudge that all the property of such offender shall be forfeited to Government.

Forfeiture to extend to all property possessed by the offender at the time of the commission of the offence.

III. The forfeiture, whether upon conviction of such an offence as aforesaid, or upon an adjudication of forfeiture under this Act, shall extend to all property and effects of or to which the offender shall have been possessed or entitled, either at the time of committing the offence, or at the time of the conviction or of the adjudication of forfeiture, or at any intermediate time; and no sale, alienation, or other disposition of such property, made subsequently to the commission of the offence, or made at any time with the fraudulent intention of preventing a forfeiture, shall have any effect against the right of Government to the forfeiture.

Proviso.

Provided that nothing in this section contained shall affect any transferee of any negotiable security, who shall prove that he acquired the same in good faith and with due caution for valuable consideration.

Forfeiture of land when an alienation has been made without a valuable consideration before the commission of the offence.

IV. All immoveable property of the offender, which shall be alienated after the passing of this Act and before the commission of any offence specified in Section II. shall be forfeited in the same manner as if no such alienation had been made, unless the alienation be made in good faith and for valuable consideration, or unless the same shall have been made and registered more than three months before the commission of the offence.

Unless alienation made and registered three months before.

Court may specify in the conviction the day on which the offence was committed.

V. The Court, or other authority by which the offender shall be convicted or the forfeiture shall be adjudged, may specify in the conviction or adjudication the day on which the offence was committed, if it can be ascertained.

What matters shall be proved by the conviction or adjudication.

VI. In any proceeding concerning property alleged to have been forfeited, the conviction shall be conclusive evidence that the offence was committed, and (if the day be specified in such conviction) that the offence was committed on that day; if the day be not specified, the conviction shall be *primâ facie* evidence that the offence was committed on the day mentioned in the charge. In any such proceeding, an adjudication of forfeiture under this Act shall be *primâ facie* evidence of the commission of the offence, and (if the day be specified in the adjudication) that the offence was committed on that day; if the day be not specified, the adjudication shall be *primâ facie* evidence that the offence was committed on the day mentioned in the charge. Any adjudication under this Act shall be filed with and may be proved in the same manner as the records of the Principal Court of criminal jurisdiction of the district.

Procedure for the recovery of forfeited property.

VII. After the conviction or adjudication, the Collector or other chief officer appointed by Government for the collection of revenue, or any other officer whom the Government may specially appoint, may seize and take possession of the forfeited property; if he require the assistance of a Court to enable him to obtain possession of any such property by reason of any dispute respecting the title to the same or for any other cause, the prin-

cipal Civil Court of original jurisdiction of the district in which the property is situate may, upon the production of a certified copy of the conviction or adjudication, hear and determine in a summary manner upon petition any matter in dispute relating to such property. Any order which may be passed by the Court shall not be subject to appeal; but the party against whom the same may be given, by any Court other than one of Her Majesty's Supreme Courts of Judicature, shall be at liberty to bring a suit to establish his right at any time within one year from the date of the order.

Restoration of forfeited property upon proof that escape was not for the purpose of evading justice.

VIII. In case any person whose property shall have been so adjudged to be forfeited shall within one year after the seizure of any part of his property as a forfeiture surrender himself, and shall upon trial before a competent Court be acquitted of the offence, his property or the proceeds thereof shall be restored upon proof, to the satisfaction of the Court, that he did not escape or keep out of the way for the purpose of evading justice.

Limitation of Suits, &c.

IX. No suit or other proceeding shall be had or taken on account of the seizure of any property seized in pursuance of this Act, or for the restoration or recovery of such property or of the proceeds thereof, unless the same be instituted within one year from the time of the seizure.

Power to secure property before forfeiture in certain cases.

X. In case it shall appear to a Magistrate that there is reasonable ground to suppose that any person is guilty of any offence specified in Section II. of this Act, and that any property liable to forfeiture for the offence is likely to be made away with, it shall be lawful for the Magistrate to attach such property and secure the same until the trial of the offender or until an enquiry for the purpose of adjudication under this Act shall be had.

Interpretation

XI. The word "Magistrate" in this Act shall include any officer competent to commit for trial for any offence specified in Section II. of this Act.

STRAITS' SETTLEMENTS—FERRIES.

ACT No. XXVI. OF 1857.

[*Received the assent of the G. G. on the 5th Sept.*, 1857.

Recites expediency of regulating the ferries in the Straits' Settlements.

1. The Governor may establish, change and discontinue public ferries.

2. Tolls may be levied on passengers, carriages, cattle and goods at rates fixed from time to time by the Governor.

3. A Toll-keeper to be appointed at each public ferry.

4. A Table of Tolls to be hung up, in the English and Native languages, near each public ferry..

5. Imposes a fine of 10 rupees for neglecting to hang up and keep legible such Table of Tolls.

6. Imposes a fine of not more than 50 rupees on Toll-keeper for extortion or misconduct.

7. Imposes a fine of not more than 50 rupees on every person refusing to pay, or fraudulently evading Toll, or maliciously damaging Toll-bar, &c.

8. Ferry Boats to be numbered and registered, and the name of all Tindals thereof and Toll-keeper to be registered also

9. Regulations for good order of ferry boats to be made by the chief civil authority of each station. Fine of not more than 20 rupees for infringement of such regulations.

10. Imposes a fine of not more than 50 rupees for carrying for hire across any creek, &c., within 3 miles above or below each ferry, except under special license.

11. Offences under this Act to be summarily tried by Police Magistrate, and penalties recovered as under the Police Act.

12. Public ferries to be under control of the Municipal Commissioners, who are to appoint the Toll-keeper and a sufficient establishment.

13. Tolls to be collected by the Municipal Commissioners, and to form part of the Municipal Fund of the station. Commissioners, with sanction, may lease a ferry for 7 years.

An Act for regulating Ferries in the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Preamble.

Whereas it is expedient to regulate the Public Ferries within the Settlement of Prince of Wales' Island, Singapore, and Malacca, it is enacted as follows:

Governor may establish Ferries.

I. The Governor of the said Settlement may declare what Ferries within any part of the Settlement shall be deemed Public Ferries; and at any time hereafter may establish new Ferries where they are needed,

and may from time to time change the course of any Public Ferry, or discontinue any Public Ferry that is deemed unnecessary.

Tolls to be fixed by Governor.

II. Tolls, according to such rates as shall from time to time be fixed by the Governor, shall be levied upon all passengers, carts, carriages, cattle and other animals, and on all goods and merchandise carried over any Public Ferry.

Toll-keeper.

III. At every Public Ferry a Toll-keeper shall be appointed, whose duty it shall be to take the lawful tolls.

Table of Tolls.

IV. A Table of Tolls, written or printed in the English and Native languages shall be hung up in some conspicuous place near every Ferry, so as to be easily read by all persons crossing at the Ferry.

Penalty for neglecting to put up a Table of Tolls.

V. Every Toll-keeper who shall neglect to hang up and keep in good order and repair such Table of Tolls, or who shall wilfully remove, alter, or deface the same or allow it to become illigible, shall be liable to a penalty not exceeding ten rupees.

Extortion or misconduct by Toll-keeper.

VI. Every Toll-keeper who shall ask or take any toll other than the lawful toll, or who shall without due cause delay any passenger, cart, carriage, animal, or goods, shall be liable to a penalty not exceeding 50 rupees.

Refusal to pay toll, &c.

VII. Any person crossing at any such Public Ferry who shall refuse to pay the toll, or who, with intent of avoiding payment thereof, shall fraudulently or forcibly pass by or through any toll-station without paying the toll, or who shall obstruct any Toll-keeper or any of his assistants in any way in the execution of their duty under this Act; and every person who shall maliciously damage any toll-bar, boat, or any other thing employed in or about any Public Ferry, or who shall maliciously remove, alter, destroy, or damage any Table of Tolls hung up as herein before directed—shall be liable to a penalty not exceeding fifty rupees over and above the damage, if any, which he has done.

Registry of Ferry-boats.

VIII. All public Ferry-boats shall be numbered and registered as the Governor of the Straits' Settlements shall direct; and the names of all Tindals, or persons placed in charge thereof, and of all Toll-keepers, shall likewise be so registered.

Bye-laws for regulating Ferry-boats, &c., to be made by chief civil authority.

IX. The chief civil authority of each station in which there shall be a Public Ferry, shall make rules, subject to confirmation by the Governor of the Straits' Settlements, fixing the number of passengers, carts, carriages, and animals and the quantity of goods that may be carried in any public Ferry-boat at one trip, and for the safe and convenient carriage of passengers and property, and for keeping the Ferry-boats in good order, and otherwise for the due discharge of their duty by all Tindals, Toll-keepers, and other persons employed at any public Ferry; and any Tindal, Toll-keeper, or other person infringing or disobeying any such rule, shall be liable to a penalty not exceeding twenty rupees, and also to make good any loss or damage caused thereby, the amount of which shall be summarily ascertained by the Magistrate within whose jurisdiction the offence was committed; and such amount may be recovered as any penalty under this Act may be recovered.

Carrying for hire within three miles of a ferry, without license of chief civil authority, prohibited.

X. Every person who shall convey for hire any passenger, animal, cart, carriage, or goods across any arm of the sea, creek, or river within the said Settlement, to any point or place on the opposite bank or coast within a distance of three miles on either side above or below any Public Ferry, without the special license of the chief civil authority of the Station in which the Ferry is situated, shall be liable to a penalty not exceeding fifty rupees. Provided that nothing in the section shall subject to such penalty any person who shall specially let for hire his boat for the conveyance of any other person or his family or goods across any creek or arm of the sea within the said Settlement.

Proviso.

Adjudication of penalties.

XI. All offences against this Act shall be summarily heard and determined by a Police Magistrate of the station within the limits of which the same shall have been committed; and all penalties shall be recovered in the manner directed for the levy of fines and penalties by Act XIII. of 1856.

Control and management of Ferries.

XII. Every Public Ferry shall be under the control and management of the Municipal Commissioners of the station in which the same is situate.

The said Commissioners shall appoint the Toll-keeper and such other establishment as they may deem sufficient for the purposes of this Act.

Collection and farming of tolls.

XIII. All tolls payable at any Public Ferry shall be collected by the Municipal Commissioners of the Station in which the same is situate, and shall form part of the Municipal Fund of that Station. The said Commissioners, with the sanction of the Governor, may grant a lease of any such Ferry for any period not exceeding seven years.

THE UNIVERSITY OF MADRAS.

ACT No. XXVII. OF 1857.

[*Received the assent of the G. G. on the 5th Sept.*, 1857.

Recites expediency of establishing and incorporating an University at Madras for the purpose of encouraging all classes in pursuit of a regular education and of ascertaining those who have acquired proficiency, and of marking such proficiency by Academical Degrees and other proportionate marks of honor.

1. Appoints the first Chancellor, Vice-Chancellor and Fellows, and constitutes and declares them a Body Politic, with perpetual succession and a common seal, by the name of the University of Madras, by which name they are required to sue and be sued.

2. Grants power to the University to hold and dispose of property.

3. Regulates the constitution of the University and of its Senate, and provides that any member leaving India permanently shall vacate his office.

4. The Chancellor to be the Governor of Fort St. George for the time being.

5. The office of Vice-Chancellor to be held only for two years, and vacancies in it to be filled up by the Governor from among the Fellows—with power to re-appoint the previous holder of the office.

6. The *ex-officio* Fellows to be the Chief Justice of the Supreme Court, the Bishop of Madras, the Members of the Council, the Director of Public Instruction, the Principal of the Presidency College, and the President of the Medical College Council, all for the time being. The whole number of Fellows to be never less than 30, and to be kept up to that number by nominations on vacancies by the Governor in Council, who may also nominate more than 30 persons.

7. Governor in Council may cancel the appointment of a Fellow by notification in the "Gazette."

8. The Chancellor, Vice-Chancellor and Fellows to have the entire management of the affairs and property of the University, with full power to make and alter bye-laws, on all matters whatever regarding the University; such bye-

laws, however, not to be binding till approved by the Governor in Council, reduced into writing and sealed with the common seal.

9 At meetings of the Senate, six Fellows to be a quorum, the majority of votes to decide The Chairman to be the Chancellor or Vice-Chancellor or chosen by the majority of Fellows present, and to have a vote and a casting vote

10 Chancellor, Vice-Chancellor, and Fellows may appoint and remove all Examiners Officers and Servants

11. Regulates the conferring of Degrees and of marks of honor after examination and in accordance with the bye-laws.

12 Candidates for Degrees not to be admitted without a certificate from an authorised Institution of having completed the course of instruction prescribed in the bye-laws

13 Examinations for Degrees to be held at least once a year, and Examiner and subjects of examination to be appointed by the University for every such occasion.

14 Regulates the grant of Degrees

15 The University, subject to the approbation of the Governor in Council, may charge fees for Degrees, and for admission into and continuance in the University, such fees to be carried to a General Fee Fund, and to be annually accounted for.

An Act to establish and incorporate an University at Madras.

Preamble.

Whereas, for the better encouragement of Her Majesty's subjects of all classes and denominations within the Presidency of Fort St. George and other parts of India in the pursuit of a regular and liberal course of education, it has been determined to establish an University at Madras for the purpose of ascertaining, by means of examination, the persons who have acquired proficiency in different branches of Literature, Science, and Art, and of rewarding them by Academical Degrees as evidence of their respective attainments, and marks of honor proportioned thereunto; and whereas, for effectuating the purposes aforesaid, it is expedient that such University should be incorporated, it is enacted as follows (that is to say):—

Incorporation

I. The following persons, namely,

The Right Hon. GEORGE FRANCIS ROBERT, LORD HARRIS, Governor of Fort St. George.

The Honorable SIR CHRISTOPHER RAWLINSON, Knight, Chief Justice of the Supreme Court of Judicature at Madras.

The Right Reverend THOMAS DEALTRY, Doctor of Divinity, Bishop of Madras, *Ex-officio*.

The Honorable SIR PATRICK GRANT, Lieutenant-General, Knight, Commander of the Most Honorable Order of the Bath, Commander-in-Chief of the Forces in Madras, *Ex-officio.*

The Honorable WALTER ELLIOT, Member of the Council of Madras, *Ex-officio.*

The Honorable SIR HENRY CONYNGHAM MONTGOMERY, Bart., Member of the Council of Madras, *Ex-officio.*

ALEXANDER JOHN ARBUTHNOT, Esquire, Director of Public Instruction, *Ex-officio.*

EYRE BURTON POWELL, Esquire, Principal of the Presidency College, *Ex-officio.*

HENRY FORTEY, Esquire. Acting Principal of the Presidency College, *Ex-officio.*

JAMES KELLIE, Esquire, President of the Medical College Council, *Ex-officio.*

The Honorable SIR HENRY DAVISON, Knight, Puisne Judge of the Supreme Court of Judicature at Madras.

THOMAS PYCROFT, Esquire, Chief Secretary to Government.

EDWARD MALTBY, Esquire, Acting Chief Secretary to Government.

JAMES DEWAR BOURDILLON, Esquire, Secretary to Government.

HENRY FORBES, Esquire, Acting Secretary to Government.

Colonel CHARLES ALFRED BROWNE, Secretary to Government.

JAMES BLAIR PRESTON Esquire, Physician General.

The Reverend ROBERT HALLEY, Master of Arts, Principal of the Doveton College.

J. TOWNSEND FOWLER, Esquire, Principal of the Government Normal School.

P. SOOBROYOOLOO NAIDOO, President of the Patcheapah's Institution.

WILLIAM AMBROSE MOREHEAD, Esquire,
Provisional Member of the Council of Madras.

GUY LUSHINGTON PRENDERGAST, Esquire,
Accountant General.

Colonel ARTHUR THOMAS COTTON,
Commandant of Engineers.

Colonel CHARLES EDWARD FABER,
Chief Engineer in the Department of Public Works.

Lieutenant-Colonel THOMAS TOWNSEND PEARS,
Companion of the Most Honorable Order of the Bath,
Consulting Engineer for Railways.

Lieutenant-Colonel GEORGE BALFOUR,
Companion of the Most Honorable Order of the Bath.

The Reverend JOHN RICHARDS, Master of Arts.

Lieutenant-Colonel FREDERICK CONYERS COTTON,
Acting Mint Master.

CHITTUR RUNGANADUM SASTRY,
Head Interpreter in the Supreme Court of Judicature.

JOHN EMILIUS MAYER, Esquire,
Professor of Chemistry and Pharmacy in the
Madras Medical College.

The Reverend ROBERT KERR HAMILTON, Master of Arts.

The Reverend GEORGE HALL, Master of Arts.

The Reverend PETER SORENSON ROYSTOM, Batchelor of Arts.

JAMES SANDERSON, Esquire,
Surgeon in the Madras Army.

The Reverend JOHN BRAIDWOOD, Master of Arts.

JOHN DAWSON MAYNE, Batchelor of Arts,
Professor of Law, Moral and Mental Philosophy, and Logic,
in the Presidency College.

RICHARD BURGESS, Esquire,
Master of Arts, First Judge of the Court of Small Causes.

Lieutenant-Colonel JOHN JOSEPH LOSH,
Military Auditor General.

WILLIAM JUDSON VANSOMEREN, Esquire,
Doctor in Medicine,
Professor of Anatomy and Physiology in the
Madras Medical College.

SAMUEL JESUDASEN,
Native Surgeon.

Major JOHN MAITLAND,
Superintendent Gun-carriage Manufactory.

The Reverend A. BURGESS.

The Reverend W. GRANT.

being the first Chancellor, Vice-Chancellor, and Fellows of the said University, and all the persons who may hereafter become or be appointed to be Chancellor, Vice-Chancellor, or Fellows as hereinafter mentioned, so long as they shall continue to be such Chancellor, Vice-Chancellor, or Fellows, are hereby constituted and declared to be one Body Politic and Corporate by the name of the University of Madras; and such Body Politic shall by such name have perpetual succession, and shall have a common seal, and by such name shall sue and be sued, implead and be impleaded, and answer and be answered unto in every Court of Justice within the territories in the possession and under the government of the East India Company.

Power to hold and dispose of property.

II. The said Body Corporate shall be able and capable in law to take, purchase, and hold any property, moveable or immoveable, which may become vested in it for the purposes of the said University by virtue of any purchase, grant, testamentary disposition, or otherwise; and shall be able and capable in law to grant, demise, alien, or otherwise dispose of all or any of the property, moveable or immoveable, belonging to the said University; and also to do all other matters incidental or appertaining to Body Corporate.

Constitution of Body Corporate.

III. The said Body Corporate shall consist of one Chancellor, one Vice-Chancellor, and such number of *ex-officio* and other Fellows as the Governor of Fort St. George in Council hath already appointed, or shall from time to time, by any order published in the "Fort St. George

Gazette," hereafter appoint; and the Chancellor, Vice-Chancellor, and Fellows for the time being shall constitute the Senate of the said University. Provided that, if any person being Chancellor, Vice-Chancellor, or Fellow of the said University, shall leave India without the intention of returning thereto, his office shall thereupon become vacant.

Senate.

Office vacated by leaving India.

IV. The Governor of Fort St. George for the time being shall be the Chancellor of the said University, and the first Chancellor shall be the Right Honorable George Francis Robert, Lord Harris.

Chancellor.

V. The first Vice-Chancellor of the said University shall be Sir Christopher Rawlinson, Knight. The office of Vice-Chancellor shall be held for two years only; and the Vice-Chancellor hereinbefore nominated shall go out of office on the First day of January, 1859. Whenever a vacancy shall occur in the office of Vice-Chancellor of the said University, by death, resignation departure from India, effluxion of time, or otherwise, the Governor of Fort St. George in Council shall, by notification in the "Fort St. George Gazette," nominate a fit and proper person, being one of the Fellows of the said University, to be Vice-Chancellor in the room of the person occasioning such vacancy. Provided that, on any vacancy in the said office which shall occur by effluxion of time, the Governor of Fort St. George in Council shall have power to re-appoint the Vice-Chancellor hereinbefore nominated or any future Vice-Chancellor to such office.

Vice-Chancellor.

VI. The Chief Justice of Her Majesty's Supreme Court of Judicature, the Bishop of Madras, the Members of the Council of Madras, the Director of Public Instruction, the Principal and acting Principal of the Presidency College, the President of the Medical College Council, all for the time being, shall, while filling such offices, be *ex-officio* Fellows of the said University. The whole number of the Fellows of the said University, exclusive of the Chancellor and Vice-Chancellor for the time being, shall never be less than thirty; and whenever the number of the said Fellows, exclusive as aforesaid, shall by death, resignation, departure from India, or otherwise, be reduced below thirty, the Governor of Fort St.

Fellows.

George in Council shall forthwith, by notification in the "Fort St. George Gazette," nominate so many fit and proper persons to be Fellows of the said University, as, with the then Fellows of the said University, shall make the number of such Fellows, exclusive as aforesaid, thirty. But nothing herein contained shall prevent the Governor of Fort St. George in Council from nominating, more than thirty persons to be Fellows of the said University, if he shall see fit.

The appointment of a Fellow may be cancelled.

VII. The Governor of Fort St. George in Council may cancel the appointment of any person already appointed, or hereafter to be appointed a Fellow of the University; and as soon as such order is notified in the "Gazette," the person so appointed shall cease to be a Fellow.

Chancellor, Vice-Chancellor, and Fellows to superintend the affairs of the University.

VIII. The Chancellor, Vice-Chancellor, and Fellows for the time being shall have the entire management of and superintendence over the affairs, concerns, and property of the said University; and in all cases unprovided for by this Act, it shall be lawful for the Chancellor, Vice-Chancellor, and Fellows to act in such manner as shall appear to them best calculated to promote the purposes intended by the said University.

Bye-laws.

The said Chancellor, Vice-Chancellor, and Fellows shall have full power from time to time to make and alter any bye-laws and regulations (so as the same be not repugnant to law, or to the general objects and provisions of this Act) touching the examination for degrees and the granting of the same, and touching the examination for honours and the granting of marks of honor for a higher proficiency in the different branches of Literature, Science, and Art; and touching the qualifications of the candidates for degrees, and the previous course of instruction to be followed by them, and the preliminary examinations to be submitted to by them; and touching the mode and time of convening the meetings of the Chancellor, Vice-Chancellor, and Fellows; and, in general, touching all other matters whatever regarding the said University. And all such bye-laws and regulations, when reduced into writing, and after the common seal of the said University shall have been affixed thereto, shall be binding upon all persons, members of the said University, and all candidates for degrees to be conferred by the

same, provided such bye-laws and regulations shall have been first submitted to and shall have received the approval of the Governor of Fort St. George in Council.

Meetings of the Senate.

IX. All questions which shall come before the Chancellor, Vice-Chancellor, and Fellows, shall be decided at a meeting of the Senate by the majority of the members present; and the Chairman at any such meeting shall have a vote, and, in case of an equality of votes, a second or casting vote. No question shall be decided at any meeting, unless the Chancellor, or Vice-Chancellor, and five Fellows, or, in the absence of the Chancellor and Vice-Chancellor, unless six Fellows at the least shall be present at the time of the decision. At every meeting of the Senate, the Chancellor, or, in his absence, the Vice-Chancellor, shall preside as Chairman; and in the absence of both, a Chairman shall be chosen by the Fellows present, or the major part of them.

Appointment and removal of examiners and officers.

X. The said Chancellor, Vice-Chancellor, and Fellows for the time being shall have full power from time to time to appoint, and as they shall see occasion to remove, all examiners, officers, and servants of the said University.

Power to confer degrees

XI. The said Chancellor, Vice-Chancellor, and Fellows, shall have power, after examination, to confer the several degrees of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, and Master of Civil Engineering; they shall also have power, after examination, to confer upon the candidates for the said several degrees marks of honor for a high degree of proficiency in the different branches of Literature, Science, and Art, according to rules to be determined by the bye-laws to be from time to time made by them under the power in that behalf given to them by this Act.

Qualification for admission of candidates for degrees.

XII. Except by special order of the Senate no person shall be admitted as a candidate for the degree of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, or Master of Civil Engineering, unless he shall present to the said Chancellor, Vice-Chancellor, and Fellows, a certificate from one of the Institutions authorised in that behalf by the

Governor of Fort St. George in Council to the effect that he has completed the course of instruction prescribed by the Chancellor, Vice-Chancellor, and Fellows of the said University, in the bye-laws to be made by them under the power in that behalf given by this Act.

Examination for degrees.

XIII. The said Chancellor, Vice-Chancellor, and Fellows shall cause an examination for degrees to be held at least once in every year; on every such examination the candidates shall be examined either by examiners appointed for the purpose from among the Fellows by the said Chancellor, Vice-Chancellor, and Fellows, or by other examiners so to be appointed; and on every such examination the candidates, whether candidates for an ordinary degree, or for a degree with honors, shall be examined on as many subjects and in such manner as the said Chancellor, Vice-Chancellor, and Fellows shall appoint.

Grant of degrees.

XIV. At the conclusion of any examination of the candidates, the examiners shall declare the name of every candidate whom they shall have deemed entitled to any of the said degrees, and his proficiency in relation to other candidates; and also the honors which he may have gained in respect of his proficiency in that department of knowledge in which he is about to graduate; and he shall receive from the said Chancellor a certificate, under the seal of the said University of Madras and signed by the said Chancellor or Vice-Chancellor, in which the particulars so stated shall be declared.

Fees.

XV. The said Chancellor, Vice-Chancellor, and Fellows shall have power to charge such reasonable fees for the degrees to be conferred by them, and upon admission into the said University and for continuance therein, as they, with the approbation of the Governor of Fort St. George in Council, shall from time to time see fit to impose. Such fees shall be carried to one General Fee Fund for the payment of expenses of the said University under the directions and regulations of the Governor of Fort St. George in Council, to whom the accounts of income and expenditure of the said University shall once in every year be submitted for such examination and audit as the said Governor of Fort St. George in Council may direct.

Annual Accounts.

ARMS AND AMMUNITION.

ACT No. XXVIII. OF 1857.

[*Received the assent of the G. G. on the* 11*th Sept.*, 1857.

Recites expediency of regulating the importation, &c., of Arms and Ammunition.

1. Written notice of possession of Arms, specifying their number and description, to be given to the Magistrate within one week after publication in the district of the Order in Council extending this section to it. Names of retainers and servants possessing arms to be also specified.

2. Imposes a fine of not more than 500 rupees with confiscation for wilful neglect to give notice; and imprisonment for two years with confiscation and a fine of not more than 5,000 rupees, if the Arms exceed what the Magistrate considers reasonable for the private use of the possessor.

3. Magistrate to register the names of persons having Arms, and the number and description of the Arms, and to grant certificate on request.

4. Magistrate may seize and detain Arms and Ammunition, if the possession of the owner be dangerous to the public peace.

5. Persons going armed, without certificate of leave from a Magistrate may be disarmed by any Magistrate or Deputy or Assistant Magistrate, or European Commissioned Officer, or Volunteer on duty, or Police Officer. License to carry Arms, specifying the name and address of the licensee, his Arms, his course and time of travelling, to be valid in every district named therein.

6. The foregoing provisions not to apply to Officers, soldiers or sailors—Volunteers—police or revenue Officers—or other persons specially exempted by Government—nor to the armaments of ships.

7. Imposes confiscation and a fine of not more than 500 rupees in addition to double the value of the Arms, &c., for manufacturing or dealing in Arms or Ammunition without license or contrary to its conditions.

8. Licenses to manufacture, &c., percussion caps to be granted only by the Government or its specially-authorised officer. Licenses to manufacture, &c., other Arms, &c., may be granted by Magistrate.

9. Licensed manufacturer, &c., to enter in a book an account of stock-in-trade, names of purchasers, &c., and such book to be always open for inspection by the Magistrate—under penalty of forfeiture of license and fine to 500 rupees, in addition to double value of Arms, &c., not entered or falsely entered.

10. Empowers Magistrate at any time to enter and inspect the premises of a licensed manufacturer, &c., and imposes, for intentional concealment or wilful refusal to produce, a fine not exceeding 500 rupees and total confiscation of stock-in-trade.

11. Magistrate may grant licenses conditionally, and may revoke and suspend them.

12. Arms, Ammunition, and Sulphur not to be imported without license from Government.

13. Imposes for importation without license a fine not exceeding 1,000 rupees with confiscation of articles imported and imprisonment for not more than 2 years.

14. Allows importation of Arms and Ammunition in reasonable quantities for private use, but subject to notice and to detention by Collector of Customs.

15. Government may prohibit the transport in any particular direction of Arms, Ammunition, Stores, &c

16. Imposes for attempt to transport contrary to prohibition, a fine of not more than 500 rupees; and for such attempt with concealment an additional imprisonment of not more than two years.

17. Persons carrying Arms, &c., under suspicious circumstances may be apprehended without warrant, but must be delivered as soon as possible to a police officer, and by him carried before a Magistrate.

18. Government may prohibit sale of sulphur, under penalty of fine not exceeding 500 rupees, and confiscation.

19, 20, 21. Government may seize and detain all sulphur, except such as is kept for medicinal purposes, or has been specially exempted by itself.

22. Confiscation, fine of not more than 5,000 rupees, and imprisonment for not more than 2 years, for wilful neglect to give notice of possession of ammunition, &c., after requisition by Government.

23. Magistrate on reasonabe suspicion may enter and search, or delegate to European Assistant the power to enter and search, houses for Arms, &c.

24. A general search for Arms, Ammunition, &c., by specified persons in a specified district may be ordered.

25. Persons concealing or neglecting to produce Arms, &c., on such general search may be apprehended without warrant, and, on conviction, sentenced to imprisonment for 2 years.

26. One week after Publication of Government Order in any district, the Magistrate may sentence to a fine of 2,000 rupees and imprisonment for 2 years any person making, using or keeping cannon, &c., without license.

27. A fine of 200 Rupees or imprisonment for six months may be imposed for resistance to execution of duty under this Act.

28. Notice and limitation of suits.

29. Regulates imprisonment in default of payment of fine.

30. Fine or penalty or any portion of either may be given to informer.

31. Interprets the word "Magistrate."

32. All the powers of a Magistrate under this Act, except those of conviction and confiscation, may be vested by the Government in any person having immediate superintendence of the police.

33, 34. This Act, or any part of it, to take effect in any district or part of a district to which it is extended by Government.

35. Act to be in force for two years.

36. Indemnity for seizure or detention of Arms, &c., before Act passed.

An Act relating to the importation, manufacture, and sale of

Arms and Ammunition, and for regulating the right to keep or use the same.

Continued by Act XIX., 1859, to the end of 1859; and by Act XXVI., 1859, to the 30th June, 1860; and Act XXIX., 1860, for one calendar month from that date, and by Act XXXI., 1860, to 1st October, 1860; Act XXXI., 1860, being the new Act on arms and ammunition, passed for a limited time, and since continued.

BOMBAY.—LAND CUSTOMS ON FOREIGN FRONTIERS.

Act No. XXIX. of 1857.

[*Received the assent of the G. G. on the* 11*th Sept.*, 1857.

Recites expediency of making better provision for the collection of Land Customs on certain frontiers.

1. Repeals Act II., 1852.

2. Land Customs Duty to be charged on goods passing in or out of foreign European Settlements at the rates laid down for Sea Customs by Act I., 1852.

3. Land Customs Duty may be charged, after notification in the "Gazette" by the Governor in Council, on goods passing in or out of the Territories of any Native Chiefs, at the rate, or to double the rate, laid down for Sea Customs by Act I., 1852.

4. Customs stations to be established at places fixed upon by the Governor in Council.

5. Governor in Council may appoint such persons as he may think fit for the supervision and for the subordinate management of the Land Customs, and Sections IV.—VI., Act I., 1852, shall apply to such persons. No new office to be created without consent of the Governor General in Council.

6. Governor in Council may notify in "Gazette" by what roads goods shall pass, and goods passing by other roads to be liable to confiscation.

7. Goods unlawfully passed across the frontier after sunset to be confiscated.

8. Goods passed without a written application containing a true description of them with the marks, numbers, description and value of the packages, to be liable to confiscation.

9. Goods brought to be passed with a misdescription in the written application, to be liable to confiscation.

10. Government to fix the value of goods for the purpose of levying Duty.

11. Duty leviable according to the market value, where value or amount of Duty not otherwise fixed.

12. Market value to be ascertained by taking the goods on account of Government and selling them. In such case payment to be made within one

month, and half the net profit to be payable to, and half the net loss to be defrayed by, the officer reporting under valuation.

13. No exemption to be made except under special order of Government, or as personal luggage.

14. Station officer, after passing goods, to grant certificate. Production of certificate my be required.

15. On loss of certificate, the Commissioner may grant a duplicate on payment of a fee of from 1 to 10 Rupees.

16. Station Officer, unlawfully permitting goods to pass without payment of Duty or by prohibited road, to be liable to imprisonment for 6 months, or fine of 500 Rupees, or both.

17. Station officer vexatiously injuring or detaining goods, to be liable to imprisonment for 6 months or fine of 500 Rupees, or both.

18. Person intentionally obstructing station officer to be liable to imprisonment for 6 months or fine of 1,000 Rupees, or both.

19. Person offering bribe to any officer to be liable to imprisonment for 6 months or a fine of 1,000 Rupees or both.

20. Confiscation, &c., to be adjudicated by Commissioner of Customs, or to extent of 100 Rupees, and subject to appeal by Assistant Commissioner, both being Justices.

21. Adjudicating officers may order restoration of forfeited goods, which, if accepted, shall bar action for damages by the owner.

22. Adjudicating officer may adjudge damages for vexatious seizure of goods, and such damages, if accepted by the owner, shall bar action in Civil Court. Adjudicating officer may mitigate penalty of confiscation to one-tenth of market value, and from sale or proceeds may order one-half to be distributed to the officers.

An Act to make better provision for the collection of Land Customs on certain foreign frontiers of the Presidency of Bombay.

Preamble.

Whereas it is expedient to make better provision for the collection and management of Land Customs on certain foreign frontiers of the Presidency of Bombay, it is enacted as follows:

Act repealed.

I. Act II. of 1852, is hereby repealed.

Customs Duty on goods passing by land into or out of certain foreign European settlements.

II. Duties of Customs shall be levied on goods passing by land into or out of foreign European settlements situated on the line of Coast within the limits of the Presidency of Bombay, at the rates prescribed in the schedules of Act I. of 1852, for Duties of Customs leviable at the port of that Presidency. [Repealed by Act XXIII., 1859, s. 1, except as to Salt and Opium.]

Land Customs Duty on goods passing into or out of Territories of Native Chiefs.

III. The Governor of the Presidency of Bombay in Council may declare, by notice to be published in the "Official Gazette" of that Presidency, that the Territory of any Native Chief, not subject to the jurisdiction of the Courts and Civil Authorities of that Presidency, shall be deemed to be Foreign Territory; and may declare goods passing into or out of such Territory liable either to the duty fixed by the schedules of Act I. of 1852, for goods imported or exported at the ports of that Presidency, or to double the said duties, as the Governor in Council may think fit.

Customs Stations.

IV. For the levy of Duties of Customs, as above provided, on goods exported by land to, or imported by land from, such foreign territories, Customs Stations may be established at such places as may be determined by the Governor in Council.

Appointment of officers.

V. The Governor in Council may appoint such persons as he may deem fit for the control and supervision of the collection and management of the Customs payable under this Act, as Commissioners and Deputy Commissioners of Customs, or under such other designation as the said Governor in Council shall determine; and may appoint all other proper persons to execute the duties of the several subordinate offices necessary to the due management and collection of the said Customs; and the provisions of sections IV., V. and VI. of the said Act I. of 1852, shall be applicable to the persons so appointed. Provided that no new office shall be created without the previous consent of the Governor General of India in Council.

Government to prescribe by what roads goods may pass.

VI. The Governor in Council may prescribe, by public notice in the "Official Gazette," by what roads and passes goods shall be allowed to pass into or out of any such Foreign Territory as is described in Sections II. and III. of this Act; and after such notice, goods which may be brought to any Station established on other roads or passes than those so prescribed, shall be detained, and shall be liable to confiscation, unless the person in charge thereof shall be able to satisfy the adjudicating officer that his carrying them by that road or pass was from ignorance or

Goods not to be passed across the frontier after sunset.

VII. Goods unlawfully passed, or attempted to be passed unlawfully, across any frontier guarded by Stations, between sunset and sunrise, shall be seized and confiscated.

Written application for permission to pass goods.

VIII. When goods are brought to be passed at any Station established for the levy of Duties and passing of goods, a written application, according to a form to be prescribed by the Commissioner of Customs, shall be made by the owner or person in charge, for permission to pass such goods; and such application shall contain a true description of the goods, with the marks, numbers, and description of the packages containing the same, and a declaration of their value. If any goods shall be passed or attempted to be passed without such an application in writing as is above described, they shall be liable to be seized and confiscated.

Misdescription of goods in application.

IX. Goods brought to be passed at any such Station shall be liable to confiscation, if the packages in which the same may be contained shall on examination be found not to correspond with the description of them given in the application, or if the contents thereof be found not to have been correctly described in regard to sort, quality, or quantity, or if, in or among the packages, any goods not stated in the application be found concealed or mixed up with the specified goods.

Government to fix the value of goods for the purpose of levying Duty.

X. The Governor in Council from time to time, by notice in the "Official Gazette," may fix a value for any article or number of articles liable to Duty under this Act upon their value; and the value so fixed for such articles shall, till altered by a similar notice, be taken to be the value of such articles for the purpose of levying Duty on the same under this Act.

Duty leviable on certain goods according to the market value.

XI. When goods liable to Duty, for which a value has not been fixed by such a notice as is above directed, or for which a fixed Duty has not been declared by the said schedules, are brought to any such Station as aforesaid, the Duty leviable on such goods shall be levied according to the market-value of such goods.

Ascertainment of market value for levy of Duty.

XII. If the value of any goods, upon which Duty is leviable according to the market value thereof, shall appear to be understated in the declaration of value prescribed in Section VIII., the officer authorised to receive Duties of Customs at the Station where such goods are brought to be passed shall have power to take the goods, or any part thereof, as purchased for the Government at the price so declared; and whenever he shall so take goods for the Government, payment thereof shall be made for the same within one month from the date of the declaration, and the officer shall sell the goods so taken on account of Government, and, if they shall realize on sale a sum exceeding all charges incurred on them by Government, a proportion not more than one-half of the excess shall, at the discretion of the Commissioner, be payable to the officer who reported the undervaluation of the goods, who shall in like manner be liable to pay one-half of the net loss that may accrue on the sale of the said goods.

Exemptions.

XIII. No goods entered in either of the said schedules as liable to Duty, shall be exempted from the payment of such Duty or of any part thereof, except under special order from the Governor in Council; provided always, that any officer authorised to receive Duties of Customs under this Act may, at his discretion, pass free of Duty any passenger's personal baggage in actual use; and if any person shall apply to have goods passed as such baggage, such officer, acting under the orders of Government, shall determine whether they be passenger's personal baggage in actual use, or goods subject to Duty under the provisions of this Act.

Certificate of payment of Duty.

XIV. When goods are passed at any such Station as aforesaid, the officer authorised to receive Duties of Customs at such Station shall grant a certificate of the payment of such Duty, or (if the case so require) of the goods having been passed free of Duty. Any officer of Customs employed at a Station established under this Act may require any person in charge of dutiable goods which have been passed across the frontier to produce the certificate granted for such goods; and any goods which are unaccompanied by a certificate, or which on examination do not correspond with the

specification contained in the certificate produced, shall be detained and shall be liable to confiscation.

Granting duplicate of lost Certificate.

XV. If a certificate be lost by any person to whom it may have been issued by the officer authorised to issue the same, the Commissioner of Customs, or other officer duly authorised in that behalf, on being satisfied that no fraud has been committed, or was intended, may grant a duplicate of such lost document upon a payment of a fee of not less than one rupee nor exceeding ten rupees. The Commissioner or other officer as aforesaid may also authorise any amendment to be made in any application made under this Act; but, if such amendment be required after such application is entered and recorded in the Custom-house books, then upon payment of a like fee for any amendment in a document so entered.

Station Officer permitting goods to pass without payment of Duty.

XVI. Any Station officer who shall permit goods liable to Duty to pass across the frontier without payment of Duty, or who shall release any goods not covered by a sufficient certificate, or who shall permit such goods to pass by any road or pass other than the prescribed roads or passes, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six months, or to a fine not exceeding five hundred rupees, or both.

Vexatious seizure by Station officer.

XVII. Any Station officer who shall needlessly and vexatiously injure goods under the pretence of examination, or in the course of his examination, or who shall wrongfully detain goods for which there is produced a sufficient certificate, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six months, or to a fine not exceeding five hundred rupees, or both.

Obstruction of Officers.

XVIII. Whoever intentionally obstructs any officer in the exercise of any powers given by this Act to such officer shall be liable on conviction before a Magistrate, to imprisonment for any term not exceeding six months, or to a fine not exceeding one thousand rupees, or both.

Offering bribes to officers.

XIX. Whoever offers a bribe to any officer appointed under this Act, in order to induce such officer to act in a manner inconsistent with his duty, shall be liable for every such offence, on conviction before a

Magistrate, to a fine not exceeding one thousand rupees, or to imprisonment for any term not exceeding six months, or both.

Adjudication of confiscations, &c.

XX. In all cases in which, under this Act, goods are liable to confiscation, a Commissioner or Deputy Commissioner of Customs appointed under this Act may adjudicate such confiscation, or the same may be adjudged by an Assistant Commissioner of Customs appointed under this Act, being a Justice of the Peace: Provided that the power to adjudicate confiscation shall not extend, as regards an Assistant Commissioner, to goods beyond the value of one hundred rupees; and all cases adjudicated by an Assistant Commissioner shall be liable to revision by a Commissioner or Deputy Commissioner of Customs on appeal.

Restoration of forfeited goods.

XXI. In case any goods shall be seized as liable to confiscation, or detained as under-valued, under this Act, the adjudicating officer may order the same to be restored in such manner and on such terms and conditions as he thinks fit to direct; and if the owner of the same accepts such terms and conditions, he shall not have or maintain any action for recompense or damage on account of such seizure or detention, and the adjudicating officer shall not proceed to condemnation.

Damages for vexatious seizure.

XXII. Any officer authorised to adjudicate Customs cases, if he shall decide that a seizure of goods made under the authority of this Act was vexatious and unnecessary, may adjudge damages to be paid to the owner by the officer who made such seizure, beside ordering the immediate release of the goods; and if the owner accepts such damages no action shall thereafter lie against such officer in any Court of Justice on account of such seizure; and if such adjudicating officer shall decide that the seizure was warranted, but shall deem that the penalty of confiscation is unduly severe, he may mitigate the same by the levying on the goods so seized as aforesaid any portion of the market value of such goods, not less than one-tenth of such value; and if the said officer adjudges confiscation, or any penalty in mitigation of confiscation, he may order that, from the sale of the goods, or from the proceeds of any penalty inflicted in mitigation

Penalty in mitigation of confiscation.

of confiscation, a proportion, not exceeding, in all cases of seizure except seizures of Salt or Tobacco, one-half of the sum remaining after payment of all Government demands shall be distributed in rewards amongst such officers as he deems entitled thereto, and in such proportion as he directs to each respectively. In awarding rewards for the seizure of confiscated Salt or Tobacco, the said officer may award one-half of the proceeds of sale, without making any deduction on account of Government demands.

Rewards to Customs officers.

CALCUTTA.—PORT-DUES.

Act No. XXX. of 1857.

[*Received the assent of the G. G. on the 23rd Oct.*, 1857.

Recites necessity of fixing the amount of port-dues and fees to be levied in the Port of Calcutta under Act XXII., 1855.

1. Not more than four annas a ton to be charged on sea-going vessels of 20 or more tons entering the port.

2. No port-due to be charged on vessel driven back into port by stress of weather.

3. Dhonies and country vessels to be charged half the rate charged on other vessels, and only once in sixty days.

4. Vessels entering in ballast to be charged three-fourths of the rate otherwise chargeable.

5. Tug and River Steamers to be charged as other vessels, but only twice a year, and not to be subject to Section XLVI., Act XXII., 1855.

6. Regulates fees for particular services.

7. Act to have effect from 1st January 1858, before which period the Government shall publish in the "Gazette" the rates to be charged.

8. Act to be read as part of Act XXII., 1855.

An Act for the levy of Port-dues and fees in the Port of Calcutta.

Preamble.

Whereas it is necessary to fix the amount of the Port-dues and fees, to be hereafter levied and taken in the Port of Calcutta in accordance with the provisions of Act XXII. of 1855, it is enacted as follows:

Port-due chargeable on sea-going vessels of twenty tons and upwards entering the Port.

I. A Port-due, at a rate not exceeding the rate of four annas for every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of twenty tons and upwards which shall enter the said port.

No Port-due on vessels compelled by stress of weather to re-enter the Port.

II. Provided that no such due shall be chargeable in respect of any vessel, which, having left the port, is compelled to re-enter it by stress of weather, or in consequence of having sustained any damage.

Port-due on Dhonies and country vessels.

III. Provided also that the Port-due chargeable in respect of Dhonies and country vessels employed in the coasting trade, shall be at a rate equal to one-half the rate chargeable, in respect of other vessels; and such due shall not be chargeable oftener than once in sixty days in respect of the same vessel.

Vessels entering the Port in ballast.

IV. Vessels entering the port in ballast shall be charged with three-fourths of the Port-due which would otherwise be chargeable.

Tug Steamers and River Steamers.

V. Tug Steamers and River Steamers belonging to the said port shall be liable to the Port-due specified in Section I. of this Act; and the said due shall be chargeable in respect of every such steamer once between the 1st day of January, and the 30th day of June; and once between the 1st day of July and the 31st day of December in each year. The provisions of Section XLVI., Act XXII., of 1855, shall not be applicable to such steamers.

Fees for certain services.

VI. Within the said port, fees may be charged for the following services at rates not exceeding those hereinafter specified, namely :—

Hauling to or from chain moorings, each operation.....	Rs. 16
Hauling to or from swinging moorings, each operation	Rs. 10
Re-mooring	Rs. 16
Hauling in or out of dock, each operation	Rs. 30
Removing from one part of the Port to another	Rs. 25
Removing from one mooring to another at the request of the agent or master	Rs. 50
Hooking	Rs. 16
Measuring	Rs. 30

Commencement of Act.

VII. This Act shall commence and have effect from and after the First day of January, 1858; and the Local Government shall on or before that date, pursuant to Section XLII., Act XXII., of 1855, declare, by notification to be published in the "Calcutta Gazette," the rates at which Port-dues and

Rates of Port-dues and fees to be published.

fees shall be levied in the said port subject to the provisions of and within the limits prescribed by this Act; and from and after the said date no Port-due or fee shall be levied at the said port except under the authority of Act XXII. of 1855, and of this Act.

No other Port-dues or fees to be levied.

VIII. This Act shall be read with and taken as a part of Act XXII. of 1855.

Construction.

BOMBAY.—PORT-DUES.

ACT No. XXXI. OF 1857.

[*Received the assent of the G. G. on the 23rd Oct.*, 1857.

Recites necessity of fixing the amount of dues and fees to be levied in the Port of Bombay under Act XXII., 1855.

1. Not more than two annas a ton to be charged on sea-going vessels of ten or more tons entering the port.

2. No Port-due to be charged on vessels forced to re-enter the port by stress of weather.

3. Port-due not to be charged oftener than once a month.

4. Vessels entering in ballast to be charged three-fourths of rate otherwise chargeable.

5. Regulates fees for particular services.

6. Act to have effect from 1st January, 1858, before which date Government to publish in "Gazette" the rates to be charged.

7. Act to be read as part of Act XXII., 1855.

An Act for the levy of Port-dues and fees in the Port of Bombay.

Preamble.

Whereas it is necessary to fix the amount of the Port-dues and fees to be hereafter levied and taken in the Port of Bombay in accordance with the provisions of Act XXII. of 1855, it is enacted as follows:

Port-due chargeable on sea-going vessels of ten tons and upwards entering the port.

I. A Port-due, at a rate not exceeding the rate of two annas for every ton of burthen, shall be chargeable in respect of every sea-going vessel of the burthen of ten tons and upwards (except fishing boats) which shall enter the said port.

No Port-due in respect of vessels compelled by stress of weather to re-enter the Port.

II. Provided that no such due shall be chargeable in respect of any vessel, which, having left the port, is compelled to re-enter it by stress of weather, or in consequence of having sustained any damage.

III. The Port-due chargeable under this Act shall not be chargeable oftener than once in the same calendar month in respect of the same vessel.

No vessel to pay Port-due oftener than once a month.

IV. Vessels entering the port in ballast shall be charged with three-fourths of the Port-due which would otherwise be chargeable.

Vessels entering the port in ballast.

V. Within the said port, fees may be charged for the following services at rates not exceeding those hereinafter specified, namely :—

Fees for certain services.

Transporting.	Fair Season.	Monsoon.
Vessels not exceeding 300 tons	Rs. 40 ...	Rs. 65

and 10 Rupees additional for every additional 100 tons.

	Transporting to the Middle Ground.
Vessels not exceeding 500 tons	Rs. 60.
Between 500 and 1,000 tons	„ 80
„ 1,000 and 1,500 tons	„ 100
„ 1,500 and 2,000 tons	„ 120

Vessels proceeding to sea and anchoring by desire at the Middle Ground for less than twenty-four hours, half the above rate.

Hooking	Rs. 16
Measuring	„ 30

VI. This Act shall commence and have effect from and after the First day of January, 1858; and the Local Government shall, on or before that date, pursuant to Section XLII., Act XXII., of 1855, declare, by notification to be published in the "Bombay Gazette," the rates at which Port-dues and fees shall be levied in the said port, subject to the provisions of and within the limits prescribed by this Act; and from and after the said date no Port-due or fee shall be levied at the said port except under the authority of Act XXII. of 1855 and of this Act.

Commencement of Act.

Rates of Port-dues and fees to be published.

No other Port-dues or fees to be levied.

VII. This Act shall be read with and taken as a part of Act XXII. of 1855.

Construction.

NATIVE ARMY.—ARTICLES OF WAR.

ACT No. XXXII. OF 1857.

[*Received the assent of the G. G. on the 28th Nov.*, 1857.

Recites expediency of empowering Government to order mutineer or deserter to be marked.

1. Empowers Government to order, specially or generally, that a mutineer shall be marked with the letter M, and a deserter with the letter D, on the left side two inches below the armpit.

2. Empowers the convicting authority to make a similar order.

3. Interprets the word "Government."

4. Upholds past sentences of branding.

An Act to amend the Articles of War for the Native Army.

Repealed by Act XXIX., 1861.

PASSPORT ACT.

ACT No. XXXIII. OF 1857.

[*Received the assent of the G. G. on the 5th Dec.*, 1857.

Recites the expediency of enabling the Government to prevent foreign subjects from residing and travelling in British India without its consent.

1. Foreigner, not being, the master of a ship, arriving at any Presidency Town, to report himself to the Commissioner of Police, and in other places to the Magistrate or other appointed officer.

2. Such report to be in writing and signed and to specify name, nation, object of pursuit, date of arrival, place last quitted, and place of destination.

3. Foreigners ceasing to be employed in any ship to report themselves.

4. Foreigners neglecting to report themselves to be treated as travelling without license.

5. No Foreigner to travel in British India without a license.

6. Prescribes by whom license may be granted.

7. License to state name and nation of licensee, and time and place of authorised travel.

8. License may be granted subject to conditions, and revoked at any time.

9. Foreigner travelling without or contrary to license may be apprehended without warrant.

10. Foreigner apprehended to be delivered without delay to the Police, and carried before a Magistrate, who shall report forthwith to Government.

11. Persons apprehended may be admitted to bail.

12. Foreigner apprehended may be ordered to remove or be removed from British India by such route as Government may direct.

13. Government may by writing order any foreigner to remove himself from India.

14. Foreigner refusing to remove, or returning without license after removal, may be apprehended and detained, until discharged by order of Government on such terms as may be deemed sufficient to secure peace.

15. Government may prohibit all but natural born subjects of the Queen from travelling in any part of India without license, and all such travellers may be treated as foreigners without license.

16. Authorised Police Officer may board any ship in search of foreigners, and master of ship on request to furnish a list of passengers. Foreigners on board not giving satisfactory account of themselves may be prevented from disembarking.

17. Person obstructing officer, liable to a fine of 1,000 rupees, or imprisonment for 6 months, or both.

18. Master of vessel wilfully neglecting the requisitions of this Act liable to fine of 2,000 rupees.

19. Person making false answer, or report under this Act liable to imprisonment for 2 years or fine of 1,000 rupees.

20. Interpretation of words "foreigner" and "Magistrate."

21. Burthen of proof of exemption from this Act to lie upon defendant.

22. Act to be in force for 2 years and not to extend to Aden or the Straits.

23. Foreign Ministers, Consuls, Vice-Consuls, Government servants and persons under 14 years of age or specially excepted by Government, to be exempt from operation of Act.

24. Indemnity for acts done prior to passing of Act.

An Act to make further provisions relating to Foreigners.

This Act was allowed to expire, but was revived and continued by Act XXVIII., 1859, for 2 years from 5th December, 1859; and by Act I., 1862, for 2 years more from 5th December, 1861.

Expired—Act III., 1864, is the New Passport Law.

BOMBAY.—GANJAH.

Act No. XXXIV. of 1857.

[*Received the assent of the G. G. on the 5th Dec.*, 1857.

Recites expediency of amending the law as to the sale of Ganjah.

1. Repeals Act II. of 1841.

2. Extends Act III. of 1852, to the Town of Bombay, transferring the powers of Collectors of Zillahs to the Commissioner of Customs, Salt and Opium.

3. Penalties to be adjudicated by Magistrate of Police.

An Act relating to the sale of Ganjah in the Presidency of Bombay.

Preamble.

Whereas it is expedient to regulate the sale of Ganjah in the Town of Bombay, and to amend the law relating to the sale of that article within the Territories subordinate to the Presidency of Bombay, it is enacted as follows:

Act repealed.

I. Act II. of 1841, is hereby repealed.

Provisions of Act III. of 1852 extended to the sale of Ganjah in the Town of Bombay.

II. The provisions of Act III. of 1852 relating to the sale by license of intoxicating drugs or materials within the Territories subordinate to the Presidency of Bombay, are extended to the sale of Ganjah within the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature at Bombay, anything in the said Act to the contrary notwithstanding; provided always that the duties, powers, and authorities vested by the said Act in the Collectors of Zillahs shall, within the aforesaid limits, be possessed and exercised by the Commissioner of Customs, Salt, and Opium: and the said Commissioner shall, except as herein otherwise expressly provided, have the same powers with respect to the granting, refusing, or recalling licenses for the sale of Ganjah, and with respect to the seizure and destruction or sale of unlicensed Ganjah within the said limits, as are by the said Act vested in the Zillah Collectors of Land Revenue; and all the provisions of the said Act shall be applicable to licenses granted under this Act.

Proviso.

Commissioner of Customs, Salt, and Opium empowered to grant licenses.

Adjudication of penalties.

III. All penalties shall within the said limits be adjudicated and levied by any Magistrate of Police for the Town of Bombay.

MOULMEIN, RANGOON, KYOUK PHYOOO, AKYAB, CHITTAGONG.—PORT-DUES.

Act No. XXXV. of 1857.

[*Received the assent of the G. G. on the* 14*th Dec.*, 1857.

Recites necessity of fixing the amount of Port-dues to be levied under Act XXII., 1855, in Moulmein, Rangoon, Kyouk Phyoo, Akyab and Chittagong.

1. Regulates the Port dues chargeable on sea-going vessels of ten or more tons entering port.

2. Regulates the rate chargeable on vessels driven into port by stress of weather.

3, 4. Port dues not to be chargeable on vessels driven to re-enter port by stress of weather, nor on vessels entering the same port oftener than once in sixty days.

5. Act to commence from 1st January, 1858, and the Government to publish, before that date, the rates chargeable, and no port dues to be charged except under this Act.

6. Act to be read as part of Act XXII., 1855.

An Act for the levy of Port-dues in the ports of Moulmein, Rangoon, Kyouk Phyoo, Akyab, and Chittagong.

Preamble.

Whereas it is necessary to fix the amount of the Port-dues to be hereafter levied and taken in the ports of Moulmein, Rangoon, Kyouk Phyoo, Akyab, and Chittagong, in accordance with the provisions of Act XXII. of 1855, it is enacted as follows:

Port-dues on sea-going vessels of ten tons and upwards entering port.

I. Port-dues, at rates not exceeding the rates contained in the schedule to this Act, shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards which shall enter any of the said ports.

Rate of Port-due on vessels compelled by stress of weather to enter port.

II. When any vessel enters any of the said ports, being driven in by stress of weather, or in consequence of having sustained any damage, or for any other reason, but does not discharge or take in any cargo or passenger therein (with the exception of such un-shipment and re-shipment as may be necessary for the purpose of repair)—the Port-due chargeable in respect of such vessel shall be at a rate equal to one-half the rate chargeable in respect of other vessels.

No Port-due on vessels compelled by stress of weather to re-enter port.

III. Provided that, when any vessel having left any of the said ports, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage, no Port-due shall be chargeable in respect of such vessel.

No vessel to pay Port-due at same port oftener than once in sixty days.

IV. No vessel shall be required to pay at the same port any Port-due chargeable under this Act oftener than once in sixty days.

V. This Act shall commence and have effect from and after the First day of January 1858; and the Local Government shall, on or before that date, pursuant to Section XLII., Act XXII. of 1855, declare, by notification to be published in the "Calcutta Gazette," the rates at which Port dues shall be levied in any of the said Ports, subject to the provisions of and within the limits prescribed by this Act; and from and after the said date no Port due shall be levied at any of the said Ports, except under the authority of Act XXII. of 1855, and of this Act.

Commencement of Act.

Rates of Port-dues to be published.

No Port-dues to be levied except under Act.

VI. This Act shall be read with and taken as a part of Act XXII. of 1855.

Act to be read as part of Act XXII. of 1855.

SCHEDULE.

Port.	*Maximum Rate.*		
Moulmein.....	4 annas	for every ton of	burthen.
Rangoon	6 annas	ditto	ditto.
Kyouk Phyoo	4 annas	ditto	ditto.
Akyah	4 annas	ditto	ditto.
Chittagong	4½ annas	ditto	ditto.

By Act XIII., 1867, enhanced Port-dues are established for Moulmein and Bassein, and Tolls, to be called Coast Light-dues, for ships passing on specified voyages.

MADRAS.—COMPULSORY LABOR FOR IRRIGATION WORKS.

Act No. I. of 1858.

[*Received the assent of the G. G. on the* 20*th Jan.*, 1858.

Recites expediency of compulsory labor for repairing sudden breaches in embankments, &c.

1. Authorizes Officers in charge, or in their absence Tahseeldars, to require heads of villages to make requisition for the labor.

2. Establishes penalty not exceeding 100 Rs. or simple imprisonment on laborer refusing service.

3, 4. Laborer to be paid for his labor, (4) at whose expense.

5. Same Officers may make requistiion on inhabitants for supply of necessary materials, which are to be paid for.

6. Establishes a penal contribution, in certain cases, on persons refusing to contribute their share of labor, &c.

An Act to make lawful compulsory labor for the prevention of mischief by inundation, and to provide for the enforcement of customary labor on certain works of irrigation in the Presidency of Fort Saint George.

Preamble

Whereas the safety of persons and property is endangered by inundations caused by sudden breaches of the embankments of tanks, rivers, and canals, and of anicuts and other like works; and it is necessary for the common good to make it obligatory on persons of the laboring classes, when duly called upon, to unite their labor to prevent such breaches, or to repair them instantly; and whereas it is expedient to make legal provision for the enforcement of the duty, which by local custom is incumbent on village communities, to furnish the labor required for the execution of certain works for the purpose of irrigation and drainage, it is enacted as follows:

Laborers may in certain cases be called upon to assist in preventing or repairing breaches in the embankments of tanks, rivers, &c

I. Whenever it shall appear to the Officer in charge of any tank, river, or canal, or of any anicut or other like work, that there is imminent danger of the embankment of such tank, river, or canal being breached, or of a breach being made in such anicut or other work, and of a destructive inundation being caused thereby, which may be prevented by a large body of laborers immediately working together to strengthen the embankment or other work; or when such a breach has occurred, if it shall appear to such Officer that it can be repaired, and the inundation caused by it be stopped, by the immediate employment of a large body of laborers for that purpose—it shall be lawful for such Officer to require the head or heads of the village or villages in the vicinity to call upon all able-bodied male persons of the laboring classes in such village or villages to co-operate in the work necessary for preventing or repairing the breach as the case may be. In the absence of the said Officer, it shall be lawful for the Tahseeldar of the talook to make such requisition in his stead. And if neither the said Officer nor the Tahseeldar is on the spot, and the emergency is great and urgent, it shall be lawful for the head of the village in which the breach is expected to occur or has occurred, of his own motion to call upon the laborers, as aforesaid, of his own

village, and, if needful, to make a requisition to the heads of the neighbouring villages to call likewise upon the laborers of their villages to co-operate in the work necessary for preventing or repairing the breach.

Punishment for refusing or neglecting to comply with such call.

II. Any male person of the laboring classes being duly called upon by the head of his village to labor as aforesaid, who shall refuse or neglect to comply with such call, without any lawful excuse shall, on conviction before a Magistrate, or an officer exercising the ordinary powers of a Magistrate, be punished with a fine which may extend to one hundred rupees, or with simple imprisonment which may extend to one month, or with both.

Rate of remuneration for laborers so employed.

III. Every person who shall be employed on such work under such requisition, shall be paid for his labor by day at the highest rate paid in the neighbourhood for similar work, and, if he is required to work at night, at double such rate.

Mode of Payment.

IV. Payment shall be made to the laborers from the public Treasury; and if the laborers shall have been employed upon a work belonging to a private person, the amount advanced from the Treasury shall be recoverable from such person by the same means which may be lawfully used for the recovery of arrears of Land Revenue.

Recovery of advances from private persons.

Inhabitants of villages may be called upon for the supply of certain materials.

V. It shall be lawful for heads of villages, on the requisition of the officer in charge of such works as aforesaid, or in his absence on the requisition of the Tahseeldar, or, in case of emergency, when neither such Officer nor the Tahseeldar is on the spot, of their own motion, to make requisitions upon the inhabitants of their villages for the supply of materials, to wit, trees and leaves, bamboos, straw, and the like, necessary for stopping breaches in the embankments of tanks, rivers, and canals, and to seize and if necessary to cut down such articles wherever they may be found, giving receipts for them in writing; such supplies shall be paid for from the public Treasury at the highest prices for which such articles are sold in the neighbourhood; and in case damage is sustained by any person in consequence of the cutting down of any such articles, com-

Supplies, how to be paid for.

pensation shall be made for such damage, the amount of which compensation shall, in case of dispute, be determined in the same manner as amounts payable under Section VI. When the work for which such articles are used belongs to a private person, the amount advanced from the Treasury shall be recoverable from him by the same means by which arrears of Land Revenue are recoverable.

Recovery of advances from private persons.

VI. Whenever by local custom any work for the purpose of irrigation or drainage or connected therewith is usually executed by the joint labor of a village community, any person bound by such custom to contribute labor to such work, who neglects or refuses without reasonable cause to comply with a requisition for such customary aid made to him by the head of the village under the orders of the Tahseeldar or other superior Revenue Officer, shall be liable to pay a sum equal to twice the value of the labor which he is bound to contribute. The amount so payable shall, in case of dispute, be determined summarily by a Village or District Punchayet assembled by order of the Collector through the Village or District Moonsiff according to the rules for assembling such Punchayets prescribed in Regulations V. and VII. of 1816. Such amount shall be payable on demand; and, on non-payment, the same may be recovered by the same means by which arrears of Land Revenue are recoverable. All sums paid or recovered under this Section shall be applicable to the expenses of any works for the purpose of irrigation or drainage executed for the benefit of the village communities to which the defaulters respectively belong.

Liability of person bound but refusing to contribute labor to a work of irrigation or drainage usually executed by the joint labor of a village community.

CUTTACK.—PORT-DUES.

Act No. II. of 1858.

[*Received the assent of the G. G. on the 20th Jan.*, 1858.

Recites expediency of fixing rate of Port-dues at specified ports.

1, 2. Prescribes rate to be paid by every sea-going vessel of 300 tons entering said ports; (2) except vessels entering through stress of weather.

3. Vessels belonging to such ports may compound by an annual payment.

4. Port-dues to form a common fund, called the Balasore Port Fund.

5, 6. Act to commence from 1st May, 1858; (6) prior to which rates to be fixed and promulgated.

7. This Act to be part of Act 22, 1855.

An Act for the levy of Port-dues in certain Ports in the Province of Cuttack.

Preamble.

Whereas it is necessary to fix the amount of the Port-dues to be hereafter levied and taken, in accordance with the provisions of Act XXII. of 1855, in the several Ports named in the Schedule to this Act, and in any other Port situate between the North bank of the river Soobunreekha and the South Bank of the river Dhamrah in the Province of Cuttack which may hereafter be declared by the Lieutenant-Governor of Bengal to be subject to the provisions of Act XXII. of 1855, and of this Act, it is enacted as follows:

Port-dues on sea-going vessels of three hundred maunds burden and upwards entering Port.

I. A Port-due, at a rate not exceeding the rate of six annas for every one hundred maunds of burden, shall be chargeable in respect of every sea-going vessel of the burden of three hundred maunds and upwards which shall enter any of the said Ports.

No Port-dues on vessels compelled by stress of weather to put back.

II. Provided that no such due shall be chargeable in respect of any vessel which having left any of the said Ports, is compelled to re-enter such Port, or to enter any other of the said Ports by stress of weather, or in consequence of having sustained any damage.

Port-dues may be compounded for.

III. The owner or agent of any vessel belonging to any of the said Ports may compound for the dues chargeable in such Port or in any other of the said Ports, in respect of such vessel, by an annual payment, equal to the amount of three times the rate fixed under Section I. of this Act.

The Port-dues of the several Ports shall form a common Fund.

IV. For the purposes of Section XLIV., Act XXII., of 1855, the said several Ports shall be regarded as constituting a single Port. All sums received on account of Port-dues at any of the said Ports shall form a common Fund which shall be called the Balasore Port Fund, and shall be available for the payment of all charges incurred on account of any of the said Ports.

V. This Act shall have effect from and after the First day of May 1858; and until this Act comes into effect, Port-dues may continue to be levied at the said Ports under the rules and at the rates now in force.

Commencement of Act.

VI. The Local Government shall, on or before the First day of May 1858, pursuant to Section XLII., Act XXII., of 1855, declare, by notification to be published in the "Calcutta Gazette," the rate at which a Port-due shall be levied in the said Ports subject to the provisions of and within the limits prescribed by this Act; and from and after the said date no Port-due shall be levied at any of the said Ports, except under the authority of Act XXII. of 1855, and of this Act.

Rates of Port-dues to be published.

No other Port-due to be levied.

VII. This Act shall be read with and taken as a part of Act XXII. of 1855.

Act to be read as part of Act XXII. of 1855.

SCHEDULE.

Ports.

Balasore.	Sartha.
Chooromun.	Soobunreekha.
Lychunpore.	Dhamrah.
Chanoea.	

MADRAS AND BOMBAY PRESIDENCY TOWNS.—STATE PRISONERS.

ACT No. III. OF 1858.

[*Received the assent of the G. G. on the 23rd Jan.*, 1858.

1. Repeals construction in Bombay Reg. 25, sec. 1, cl. 1, of 1827, except as to British Subjects.

2. Extends Bengal Reg. 3, 1818; Madras Reg. 2, 1819; Bombay Reg. 25, 1827, to Calcutta, Madras and Bombay.

3, 4. Extends powers of G. G. under Act XXXIV., 1850, to Governors of Madras and Bombay, and (4) legalizes past arrests, &c.

5. G. G. in Council may order removal of State Prisoners to other gaols, &c.

An Act to amend the Law relating to the arrest and detention of State Prisoners.

Preamble.

Whereas doubts have been entertained whether State Prisoners confined under Regulation II., 1819, of the Madras Code, or Regulation XXV., 1827, of

the Bombay Code, can be lawfully detained in any fortress, gaol, or other place within the local limits of the jurisdiction of the Supreme Courts of Judicature at Madras and Bombay respectively; and it is expedient that such doubts be removed, and that the powers of the said Regulations and of Regulation III., 1818, of the Bengal Code be extended, it is enacted as follows:

Part of Regulation XXV., 1827, of the Bombay Code, repealed.

I. So much of Clause I., Section I., of Regulation XXV., 1827, of the Bombay Code as provides—that, with reference to the individual, the apprehension and confinement therein referred to shall not be in breach of British Law—is repealed; except so far as the said provision applies to European British subjects.

Regulations relating to the arrest and confinement of State Prisoners in the three Presidencies, to be in force within Supreme Court jurisdiction.

II. The provisions of Regulation III., 1818, of the Bengal Code, Regulation II., 1819, of the Madras Code, and Regulation XXV., 1827, of the Bombay Code, as altered by Section I. of this Act, relating to the arrest and confinement of persons as State Prisoners; shall be in force within the local limits of the jurisdiction of the Supreme Courts of Judicature at Calcutta, Madras, and Bombay, respectively.

Powers for the better custody of State Prisoners, vested by Act XXXIV. of 1850 in the Governor General in Council, may be exercised by the Governors in Council of Fort St. George and Bombay respectively.

III. All powers for the better custody of State Prisoners which by virtue of Act XXXIV. of 1850 are vested in the Governor General in Council, shall be possessed and may be exercised by the Governor in Council of Fort St. George and the Governor in Council of Bombay respectively for the better custody of State Prisoners arrested within their respective Presidencies.

Arrests, &c., made before the passing of this Act legalized.

IV. Any person arrested as a State Prisoner before the passing of this Act or now confined as a State Prisoner by the order or under the warrant of the Governor General in Council, or of the Governor in Council of Fort St. George, or of the Governor in Council of Bombay respectively, shall be deemed to have been lawfully arrested and to be lawfully confined.

Removal of State Prisoners from one place of confinement to another.

V. The Governor General in Council may order the removal of any State Prisoner, confined under the provisions of any of the said Regulations as amended and extended by this Act, from any

fortress, gaol, or place in which he may be confined within either of the said Presidencies, to any other fortress, gaol, or place of confinement within the territories in the possession and under the Government of the East India Company.

THE GOVERNOR GENERAL.

Act No. IV. of 1858.

[*Received the assent of the G. G. on the 28th Jan.*, 1858.

Recites expediency of G. G. visiting the N. W. Provinces, &c.

1. Authorises the G. G. to exercise all the powers of the G. G. in C.
2. Transfers to President in Council all powers of G. G. in C.
3. Act to commence from notification of departure of G. G.

An Act for providing for the exercise of certain powers by the Governor General during his absence from the Council of India.

Continued by Act XXVII., 1858, for six months after 30th July, 1858, and then expired.

ESCAPED CONVICTS.

Act No. V. of 1858.

[*Received the assent of the G. G. on the 29th Jan.*, 1858.

1. Escaped convicts not surrendering themselves to be transported for life.

2, 3, 4. Escaped convicts convicted of certain specified crimes to be liable to transportation for life, if not sentenced to death.

5. Landholders and their agents bound to give early information of escaped convicts, and in default liable to imprisonment, &c.

6. Escaped convicts informing against others may be pardoned by Magistrate, &c.

7. Offences under this Act (except s. 5) may be tried by Sessions Judge, &c.

An Act for the punishment of certain offenders who have escaped from gaol, and of persons who shall knowingly harbour such offenders.

Repealed by Act XVII., 1860, s. 1, except as to any sentences passed under that Act.

IMPRESSMENT OF LABOR.

ACT No. VI. OF 1858.

[*Received the assent of the G. G. on the* 29*th Jan.*, 1858.

Recites necessity of impressing labor for building European barracks.

1. G. G. in C. or Local Government in districts brought under this Act may authorise impressment of native labor for specified purposes, and impressment of carriage, &c.

2. Establishes immunity for acts done in pursuance of this Act.

3. Impressed labor to be paid for at full value.

4. Persons suffering loss by breach of contract incurred through impressment under this Act to be compensated.

5, 6. Compensation, how to be claimed. False declaration of claim punishable.

7. Disputes respecting amount of compensation to be summarily settled and how.

8. Persons absconding to avoid the service required to be punished, how.

9. Corporal punishment not to be inflicted on European or female.

10. Extends provisions of this Act to impressments before it passed.

11. Act to apply for all work urgently required for Military purposes.

12, 13. Construes word "Magistrate." (13) Act to continue for 6 months.

An Act to authorise the impressment of artisans and laborers for the erection of Buildings for the European Troops in India, and for works urgently required for Military purposes.

A temporary Act passed only for six months, and expired.

MADRAS.—PORT-DUES.

ACT No. VII. OF 1858.

[*Received the assent of the G. G. on the* 1*st March*, 1858.

Recites necessity of establishing rates of Port-dues under Act XXII., 1855.

1, 2, 3, 4. Establishes Scheduled tonnage rates for certain vessels, and half rates for other vessels, entering Scheduled ports; but (2) no vessel to pay more than once in sixty days; and (3) only half-rates under certain specified circumstances; and (4) only three-fourths entering in ballast.

5. Establishes fees for measuring.

6. Act to commence 1st May.

7. Enjoins on Government to notify rates under Act XXII., s. 42, of 1855.

8. This Act to be read as part of former Act. Schedule of Ports and rates.

An Act for the levy of Port-dues and fees at Ports within the Presidency of Fort Saint George.

Preamble.

Whereas it is necessary to fix the amount of the Port-dues and fees to be hereafter levied and taken in accordance with the provisions of Act XXII. of 1855, in the several Ports named in the Schedule to this Act, being Ports within the Presidency of Fort Saint George, it is enacted as follows:

Port-dues on sea-going vessels of 20 tons and upwards, other than Dhonies and country vessels, entering Port.

I. Port-dues, at rates not exceeding the rates contained in the Schedule to this Act, shall be chargeable in respect of every sea-going vessel of the burden of twenty tons and upwards other than Dhonies and country vessels employed in the coasting trade, which shall enter any of the said Ports.

Port-dues on Dhonies and country vessels.

Port-dues shall be chargeable in respect of Dhonies and country vessels employed in the coasting trade, at rates equal to one-half the rates chargeable in respect of other vessels.

Port-dues to be chargeable only once in sixty days in respect of the same vessel.

II. Provided that no such dues as aforesaid shall be chargeable at any of the said Ports oftener than once in sixty days in respect of the same vessel.

Port-dues on vessels leaving Port within seven days without discharging or taking in cargo.

III. Vessels entering any of the said Ports, and leaving such Port within seven days without discharging or taking in any cargo or passenger therein, shall be charged with one-half only of the Port-due which would otherwise be chargeable. [Amended by Act XIX., 1860, Section 3.]

Port-due on vessels entering Port in ballast.

IV. Vessels entering any of the said Ports in ballast shall be charged with three-fourths only of the Port-due which would otherwise be chargeable.

Scale of fees for measuring vessels.

V. In any of the said Ports, a fee according to the scale hereinafter mentioned may be charged for measuring any vessel (that is to say)—

Under 50 tons	...	...	Rs. 7
50 tons and under 100 tons		...	,, 11
100 tons and under 150 tons		...	,, 15
150 tons and under 200 tons		...	,, 19
200 tons and under 250 tons		...	,, 23
250 tons and under 300 tons		...	,, 27
300 tons and upwards	...	...	,, 30

Commencement of Act.

VI. This Act shall commence and have effect from and after the First day of May, 1858; and until this Act comes into effect, Port-dues and fees may continue to be levied at the said Ports under the rules and at the rates now in force.

Rates of Port-dues and fees to be published.

VII. The Local Government shall, on or before the First day of May, 1858, pursuant to Section XLII., Act XXII., of 1855, declare, by notification to be published in the "Fort Saint George Gazette," the rates at which Port-dues and fees shall be levied in the said Ports subject to the provisions of and within the limits prescribed by this Act: and from and after the said date, no Port-due or fee shall be levied at any of the said Ports, except under the authority of Act XXII. of 1855, and of this Act.

No other Port-dues or fees to be levied.

Act to be read as part of Act XXII. of 1855.

VIII. This Act shall be read with and taken as a part of Act XXII. of 1855.

SCHEDULE.

Ports.	*Maximum Rate.*			
Madras	... 3	Annas for every ton of burden.		
Tutacorin	... 3	,,	ditto	ditto.
Cocanada	... 3	,,	ditto	ditto.
Cochin	... 2	,,	ditto	ditto.
Bimlipatam	... 1	,,	ditto	ditto.
Vizagapatam	... 1	,,	ditto	ditto.
Masulipatam	... 1	,,	ditto	ditto.
Cuddalore	... 1	,,	ditto	ditto.
Tranquebar	... 1	,,	ditto	ditto.
Negapatam	... 1	,,	ditto	ditto.
Calicut	... 1	,,	ditto	ditto.
Tellicherry	... 1	,,	ditto	ditto.
Cannanore	... 1	,,	ditto	ditto.
Mangalore	... 1	,,	ditto	ditto.

Amended by Act XIX., 1860.

KURRACHEE.—PORT-DUES.

ACT No. VIII. OF 1858.

[*Received the assent of the G. G. on the 12th March*, 1858.

1, 2, 3, 4. Establishes a tonnage rate on vessels entering the port; (2) but not to be paid by vessels entering by distress; (3) nor to be paid for any vessel more than once in three months; (4) and only three-fourths to be paid for vessels in ballast.

5, 6. Tug Steamers and River Steamers, how chargeable. (6) Establishes certain harbourage rates.

7, 8, 9. Act to commence 1st May, and (8) rates under Act XXII., 1855, to be notified by Local Government; and (9) this Act to be read as part of former Act.

An Act for the levy of Port-dues and fees in the Port of Kurrachee.

Preamble.

Whereas it is necessary to fix the amount of the Port-dues and fees to be hereafter levied and taken in the Port of Kurrachee, in accordance with the provisions of Act XXII. of 1855, it is enacted as follows:

Port-due on sea-going vessels of ten tons and upwards entering Port.

I. A Port-due, at a rate not exceeding the rate of four annas for every ton of burden shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards (except fishing boats) which shall enter the said Port.

No Port-due on vessels compelled by stress of weather to re-enter Port.

II. Provided that no such due shall be chargeable in respect of any vessel, which, having left the Port, is compelled to re-enter it by stress of weather, or in consequence of having sustained any damage.

Port-dues to be chargeable only once in three months in respect of the same vessel.

III. The Port-due chargeable under this Act shall not be chargeable oftener than once in three calendar months in respect of the same vessel.

Vessels entering the Port in ballast.

IV. Vessels entering the Port in ballast shall be charged with three-fourths of the Port-due which would otherwise be chargeable.

Port-due on Steamers.

V. Tug Steamers and River Steamers, belonging to the said Port, shall be liable to the Port-due specified in Section I. of this Act; and the said due

shall be chargeable in respect of every such Steamer once between the 1st day of January and the 30th day of June, and once between the 1st day of July and the 31st day of December in each year. The provisions of Section XLVI., Act XXII., of 1855, shall not be applicable to such Steamers.

Fees for certain services

VI. Within the said Port fees may be charged for the following services at rates not exceeding those hereafter specified, namely—

Removing from one part of the Port to another - -	Rs. 25
Removing from one mooring to another at the request of the agent or master - - - -	,, 50
Hooking - - - - - -	,, 16
Measuring - - - - - -	,, 30

Commencement of Act.

VII. This Act shall have effect from and after the First day of May, 1858; and until this Act comes into effect, Port-dues and fees may continue to be levied at the said Port under the rules and at the rates now in force.

Rates of Port-dues and fees to be published.

VIII. The Local Government shall, on or before the First day of May, 1858, pursuant to Section XLII., Act XXII., of 1855, declare, by notification to be published in the "Bombay Gazette," the rates at which Port-dues and fees shall be levied at the said Port, subject to the provisions of and within the limits prescribed by this Act; and from and after the said date no Port-due or fee shall be levied at the said Port, except under the authority of Act XXII. of 1855, and of this Act.

No other Port-dues and fees to be published.

Act to be read as part of Act XXII. of 1855.

IX. This Act shall be read with and taken as a part of Act XXII. of 1855.

CAMBAY GULF.—PORT-DUES.

Act No. IX. of 1858.

[*Received the assent of the G. G. on the* 19*th March*, 1858.

1, 2, 3, 4. Establishes a tonnage rate on vessels entering specified ports in the gulf; and (2) half rates when they enter through stress of weather, (3) with an exemption in favor of ships putting back through distress; and (4) no vessel chargeable more than once in a month.

5. Port dues to be carried to a common fund.

6, 7, 8. Act to commence 1st May, and (7) rates to be notified in "Gazette;" and (8) this Act to read as part of former Act.

An Act for the levy of Port-dues in certain Ports within the limits of the Gulf of Cambay.

Repealed by Act IX., 1858, of the Bombay Council.

REBELLION.

Act No. X. of 1858.

[*Received the assent of the G. G. on the* 19*th March*, 1858.

Recites expediency of authorizing confiscations, &c., for rebellion.

1. Authorizes imposition of fines on villagers, and confiscation of villages and of hereditary offices, in certain cases.

2. Authorizes imposition of fines on tribes in certain cases.

3, 4. Authorizes imposition of fines for harbouring rebels, &c., (4) but Magistrate may exempt offenders under circumstances.

5. Authorizes confiscation of estates of Zemindars, &c., in certain cases.

6. Proceedings of Magistrate under this Act to be reported to Commissioner.

7, 8. Fines on Villages to be apportioned by punchayet; and (8) on default of payment to be realized how.

9. Confiscation of village to have the effect of cancelling all under-tenures.

10. Above power over villages, to apply to any larger territorial divisions.

11. Fines on Zemindars how recoverable.

12. No appeal against order of Magistrate, but his proceedings may be revised.

13. Empowers G. G. in C. to remit confiscation.

14. No action to lie for any thing done under this Act.

15. Act to be applied only to proclaimed parts.

16. Construes word Magistrate.

17. Act to continue in force 2 years.

An Act to authorize the confiscation of Villages, the imposition of fines, and the forfeiture of certain offices in cases of rebellion and other crimes committed by Inhabitants of Villages or by members of tribes; and also to provide for the punishment of proprietors of land who neglect to assist in the suppression of rebellion or in the apprehension of rebels, mutineers, or deserters.

Expired, March, 1860.

CORPORAL PUNISHMENT.

ACT NO. XI. OF 1858.

[*Received the assent of the G. G. on the 4th April*, 1858.

In consequence of destruction of the Gaols.

1, 2. Authorizes not exceeding 30 stripes for specified offences, and (2) a fine for other offences; and stripes on default of payment.

3. Corporal punishment not to be applied to Europeans, Americans or females.

4. Interprets words Magistrate and European.

5, 6. Act to apply only to proclaimed Districts, and (6) to continue only for 2 years.

An Act to authorize the infliction of corporal punishment in certain cases.

Expired, 4th April, 1860. But Corporal Punishment in certain cases is revived by Act VI., 1864.

SUBURBS OF CALCUTTA AND HOWRAH.—ROADS.

ACT NO. XII. OF 1858.

[*Received the assent of the G. G. on the 4th April*, 1858.

Recites expediency of imposing a tax for repair of roads in suburbs.

1, 2, 3. Establishes contribution from inhabitants of suburbs, by (2) a tax on carriages, &c., with (3) exemption of gun carriages.

4. Authorizes Lt. G. to appoint Collector.

5, 6, 7, 8. Tax to be quarterly, (6) carriages under repair exempted; and (7) tax may be compounded for by livery stable-keepers, &c., (8) tax for hired carriages to be paid by hirers.

9. Requires registration of certain carriages, &c.

10. Penalty for not registering.

11, 12, 13. Collector to keep lists of persons liable; (12) who are required to give the requisite information; (13) and may be summoned.

14, 15. Liability may be questioned by appeal; (15) but Magistrate's decision final.

16, 17, 18, 19, 20. Tax bill to be presented; (17) may be recovered under warrant; (18, 19) by distress and sale; or (20) by auction.

21, 22. Estimate of year's expenses to be made to and sanction of Lt. G. requisite; and if collections fall short of amount, excess to be raised under Act XX., 1856, and (22) all sums applied under this Act to be put in a common fund.

23. Annual statements of expenditure to be published.

Schedule, Rates, Forms and Table of fees.

An Act for raising funds for making and repairing roads in the suburbs of Calcutta and the Station of Howrah.

Preamble.

Whereas considerable sums are expended annually by Government for making and repairing roads in the suburbs of Calcutta and the station of Howrah: and whereas it is just and expedient that such expenses, or a reasonable proportion thereof, should be defrayed by the inhabitants of the said suburbs and station in the same manner as the expense of making and repairing roads in the town of Calcutta is defrayed by the inhabitants of the said Town: and whereas a tax has been imposed upon carriages and horses kept within the said Town; and it is expedient that a similar tax should be imposed upon carriages and horses kept within the said suburbs and station, it is enacted as follows:

Expense of making roads to be defrayed by inhabitants.

I. The sums required for making and repairing roads within the limits of the said suburbs and station, except as hereinafter otherwise provided, shall be contributed by the inhabitants of the said suburbs and station, and shall be recovered in the manner hereinafter provided.

A tax to be imposed on carriages, horses, &c.

II. A tax shall be imposed upon all carriages, horses, ponies, and mules kept within the limits of the said suburbs and station, as those limits are defined in Act XXI. of 1857, at the rates specified in the annexed Schedule; and shall be payable quarterly by the owners or persons having charge of the same.

Exemptions.

III. Provided that the carriages and animals hereinafter mentioned shall be exempt from the tax, namely:

Gun carriages, and ordnance carts and waggons.

Cavalry horses, and horses of mounted Police.

Horses belonging to Officers doing regimental duty at the Presidency, or in the said suburbs or station, at the rate of one horse for each Officer.

Carriages and animals kept for sale and not used for any other purpose, if kept by *bonâ fide* dealers in such carriages or animals.

Lieutenant-Governor may appoint Collector of tax.

IV. The Lieutenant-Governor of Bengal may appoint such person as he shall deem fit to be Collector of the carriage and horse-tax in the said suburbs and in the said station.

V. Every person, who may have owned or had charge of any carriage or animal kept within the said suburbs or station for any number of days in any quarter, shall be liable to the whole tax for that quarter.

Ownership for any number of days in a quarter constitutes liability to the tax for a whole quarter.

VI. If a carriage shall have been under repair at a carriage-maker's for the whole period contained in any quarter no tax shall be leviable in respect of such carriage for that quarter.

Exemption of carriages under repair.

VII. The Collector, at his discretion, may compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages and horses for hire, for a certain sum to be paid for the carriages and horses so kept by such persons, in lieu of the rates specified in the Schedule.

Collector may compound with livery stable-keepers.

VIII. Carriages and horses let out for hire and kept for the time being in premises situated within the said suburbs or station, although owned by livery stable-keepers or others not residing within the limits of the said suburbs or station, shall be subject to the tax; and the sums to be charged for such carriages and horses shall be recoverable from the persons in whose premises they are for the time being kept.

Carriages and horses let for hire to residents in the suburbs liable to the tax.

IX. Every carriage of the description rated in the Schedule at one Rupee and eight annas, kept within the said suburbs or station, and let out for hire, shall be registered in the Office of the Collector, and shall bear, in such manner as the Collector shall direct, the number of such registration. The registration shall be made and the number assigned annually upon such day in each year as the Collector shall appoint. Any person becoming possessed, within the year, of any such carriage which has not been registrated, may obtain registration on application to the Collector at his Office. When any registered carriage is transferred within the year, it shall be registered anew in the name of the person to whom it has been transferred. A fee of four annas shall be paid for each registration.

Registry and numbering of carriages for hire.

X. Whoever keeps any such carriage, required to be registered by the provisions of the last preceding Section, without being so registered, shall,

Penalty for not registering.

on conviction before a Magistrate, be liable to a fine not exceeding ten Rupees, and the Collector or any Officer duly authorised by him may seize or cause to be seized any such carriage (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods), together with the horses or other animals drawing the same, and may deliver them over to the Police; and all Police Officers are hereby required, on the application of the Collector or his Officer as aforesaid, to seize and detain the same. If the carriage as aforesaid be not claimed or if the fine be not paid within ten days, such carriage, together with the animals seized with it, may be sold by auction by order the Magistrate, and the proceeds applied to the payment of the fine and all costs and charges incurred on account of the detention and sale, and the surplus (if any), if not claimed by the owner within a further period of twenty days, shall be paid to the Collector.

List of persons liable to tax to be prepared.

XI. The Collector shall from time to time cause to be prepared and entered in distinct columns in a book to be kept at his office, and to be open to the inspection of any person interested therein, a list of the persons liable to the payment of the tax, a description of the carriages and animals in respect of which they are liable, and the amount of the tax assessed thereon.

Returns may be required for purpose of making list.

XII. In order to enable the Collector to make such list, the Collector or any officer authorised by him may send to all persons supposed to be liable to the payment of the tax, a Schedule to be filled up with such information respecting the carriages and animals kept by them as the Collector may judge necessary for the assessment of the tax. The Schedule shall be filled up in writing, and signed and dated, and returned to the Office of the Collector by every person to whom it is sent, whether or not liable to the payment of the tax; and whoever refuses, neglects, or omits duly to fill up and return such Schedule within one week from the receipt thereof, or knowingly gives therein any incorrect or false return, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred rupees.

Power to summon persons liable to tax.

XIII. The Magistrate, on the report of the Collector, may, if he think proper, summon any person supposed to be liable to the payment of the tax, or

any servant of such person, to appear before the Collector; and the Collector may examine such person or his servant as to the number and description of the carriages and horses in respect of which such person is liable to be assessed. If the person summoned shall, without lawful excuse, fail to appear in pursuance of the summons, or shall refuse to answer any lawful question of the Collector, or knowingly give an indirect answer, he shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred Rupees.

Appeal against assessment may be made to Magistrates.

XIV. Any person who may dispute his liability for any assessment made under the foregoing provisions of this Act, or the amount of any such assessment, may appeal to the Magistrate. Provided that such appeal shall be commenced within ten days after the receipt by such person of a bill for the sum claimed from him in respect of such assessment.

Proviso.

Magistrate's decision final.

XV. The decision of the Magistrate upon every such appeal shall be final and conclusive; and no person shall be entitled to contest any assessment made under the foregoing provisions of this Act, in any other manner than by appeal to the Magistrate as hereinbefore provided.

Bill to be presented.

XVI. When any sum is due on account of the said tax, the Collector shall cause to be presented to the person liable to the payment thereof a bill for the amount, which shall also contain a statement of the period and a description of the carriages and animals for which the charge is made, together with a notice of the time within which an appeal may be preferred.

Notice of demand.

XVII. If the bill is not paid by the person liable to pay the same within five days from the presentation thereof, the Collector may cause to be served upon such person a notice of demand in the form (A) contained in the Schedule to this Act, or to the like effect; and if such person shall not, within five days from the service of such notice of demand, pay the sum due or show sufficient cause for non-payment of the same to the satisfaction of the Collector, and if no appeal shall have been preferred, such sum with all costs may be levied by distress and sale of the goods and chattels of the

defaulter under a warrant in the form (B.) in the Schedule or to the like effect, to be issued for that purpose by the Collector.

Inventory and notice of sale.

XVIII. The Officer charged with the execution of the warrant of distress shall make an inventory of the goods and chattels seized under any such warrant, and shall at the same time give a notice in writing in the form (C.) contained in the Schedule annexed to this Act, to the person in possession thereof at the time of the seizure, that the said goods and chattels will be sold as therein mentioned.

Sale.

XIX. If the arrear is not paid with costs, or the warrant is not discharged or suspended by the Collector, the goods and chattels seized shall be sold under the orders of the Collector, who shall apply the proceeds or such part thereof as may be necessary in discharge of the said arrears and costs; and the surplus (if any) shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure. The fees payable upon distraints under this Act shall be such as are set forth in the Table of fees (D.) in the said Schedule.

Fees.

Collector may sue instead or on failure of distress.

XX. Instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or part of any sum due in respect of the tax, the Collector may sue the person liable for the same in any Court of competent jurisdiction.

Estimate of probable expense of making and repairing roads, to be prepared annually and published.

XXI. Previously to the First day of May of each year, an estimate shall be prepared of the amount required during the year for the purpose of making and repairing roads in the said suburbs and in the said station respectively; and such estimate, when sanctioned by the Lieutenant-Governor of Bengal, shall be published in the Official Gazette for general information. The Governor General of India in Council, on the report of the Lieutenant-Governor, shall determine whether any and (if any) what proportion of the said estimate shall be paid out of the Public Revenues. If, after deducting such proportion (if any), the said estimate shall exceed the sum which the carriage and horse-tax is estimated to produce, with the addition of such further

If estimate of expense exceed estimated produce of carriage and horse-tax excess, how to be levied.

sums as may be assigned by the Lieutenant-Governor for the said purpose out of the Ferry Fund, or any other public fund, such excess shall be added to the amount of the assessment or rate to be levied in the said suburbs and in the said station under Act XX. of 1856, and such additional assessment or rate shall be made and recovered according to the provisions of that Act. Provided that the amount levied by an assessment or rate under this Section shall not in any case exceed a sum equal to one-half of the amount levied under the said Act XX. of 1856 for the purposes of that Act.

Proviso.

XXII. The proceeds of any assessment or rate made as aforesaid shall be kept distinct from the proceeds of the assessment or rate made for the purposes of the said Act XX. of 1856; and such proceeds, together with all sums received by the Collector of the carriage and horse-tax, and all sums assigned by Government, as above provided, and all fines and penalties levied under this Act, shall form a Fund which shall be called in the suburbs of Calcutta "The Suburban Roads Fund," and in the station of Howrah "The Station Roads Fund." All expenses incurred for the purpose of this Act shall be defrayed from the said Fund, and the residue shall be applied exclusively to making, repairing, and improving roads within the limits of the said suburbs and station. Provided that no payment shall be made from the said Fund for repair of such roads or parts of roads as are hereinafter described, namely:—

Collections and fines to be paid to Roads Fund.

Appropriation of Fund.

No payment to be made out of the fund for the repair of certain roads.

In the said Suburbs—

The Barrackpore road with the Lock-gate road.

The road from the Cossipore gun-foundry to Dum-Dum.

The Belgatchaya or Dum-Dum road.

The Behalea or Diamond Harbour road, southward from the cross road to Allipore and Tollygunge.

The Budge-Budge road.

The Guarchhabath or Culpee road from the end of Old Ballygunge road.

The Canal roads and the roads leading from the Canals and Salt-water lake into the Town, namely, to the Balliaghutta, Narkooldangah, Manicktollah, Ooltadunga, Gooreeparah, South Seal-

dah, Kooleah, Nimtollah, Jonmajoy Baboo's, Khodagunge, and Khodghatta roads, and the Soorah road between the Balliaghatta and Narkooldangah roads.

In the said Station—

The Hooghly Road northward from the point where it is crossed by the Old Benares Road.

The Old Benares Road westward from the same point.

Or for making or maintaining any part of any other main road of communication between the Town of Calcutta and the interior of the country which may hereafter be constructed.

Statement of expenses incurred and of receipts and disbursements of Fund to be published annually.

XXIII. The Lieutenant-Governor of Bengal shall cause statements to be prepared annually of all expenses incurred on account of making, repairing, and improving the roads of the said suburbs, and of the said station, and of all sums credited to and disbursed from the Suburban Roads Fund and the Howrah Station Roads Fund; and the said statements shall be published in the Official Gazette for general information.

SCHEDULE.

	Rupees per Quarter	
For every 4-wheel carriage on springs, drawn by two horses	4	8
For every 4-wheel carriage on springs, drawn by one horse, or pony, or a pair of ponies, under thirteen hands ...	1	8
For every 4-wheel carriage without springs	1	8
For every 2-wheel carriage on springs	2	4
For every 2-wheel carriage without springs, drawn by a horse, pony, or mule	0	12
For every horse	2	4
For every pony under thirteen hands, or mule	0	12

Ponies under eleven hands, and children's carriages, the wheels of which do not exceed twenty-four inches in diameter, exempt.

A.

Notice of Demand.

Take notice that the Collector of the Horse and Carriage-Tax for demands from you the sum of due from you for for the months of 185 ; and that if the sum due is not paid into the said Collector's

Office at , or if sufficient cause for the non-payment of the sum is not shewn to the Collector within five days from the service of this notice, a warrant of distress will be issued for the recovery of the same with costs.

(Signature of the Collector.)

Date——

B.

DISTRESS WARRANT.

To *(here insert the name of the Officer charged with the execution of the Warrant.)*

Whereas of has not paid or shown sufficient cause for the non-payment of the sum of Rupees due for the taxes mentioned in the margin for the months of 185 , although the said sum has been duly demanded in writing from the said and five days have elapsed since the service of the notice of demand, this is to command you to distrain the goods and chattels of the said to the amount of the said sum of Rupees and such further sum as may be sufficient to defray the charges of taking, keeping and selling such distress; and if, within five days next after such distress, the said sum shall not be paid, together with such further sum as may be sufficient to defray the charges of taking and keeping such distress, to sell the said goods and chattels; and having paid and deducted out of the proceeds of the sale the said sum of Rupees and the charges of taking, keeping, and selling such distress, to return the surplus (if any) on demand to the person whom you shall find in possession of the said goods and chattels. If sufficient distress cannot be found of the goods and chattels of the said , you are to certify the same to me together with this warrant.

(Signature of the Collector.)

C.

FORM OF INVENTORY AND NOTICE.

(State particulars of goods seized.)

Take notice that I have this day seized the goods and chattels specified in the above inventory for the sum of Rupees due for the taxes mentioned in the margin for the months of

185 ; and that unless you pay into the Office of the Collector of the Horse and Carriage-tax for the amount due, together with the costs of this distress, within five days from the day of the date of this notice, the goods and chattels will be sold.

(Signature of the Collector.)

Date———

D.

Table of Fees payable upon distraints under this Act.

Sum distrained for.						Fee.	
						Rs.	As.
Under	1	Rupee				0	4
	1	and under	3	Rupees		0	8
	3	"	5	"		1	0
	5	"	10	"		1	8
	10	"	15	"		2	0
	15	"	20	"		2	8
	20	"	25	"		3	0
	25	"	30	"		3	8
	30	"	35	"		4	0
	35	"	40	"		4	8
	40	"	45	"		5	0
	45	"	50	"		5	8
	50	"	60	"		6	0
	60	"	80	"		7	8
	80	"	100	"		9	0
Above		"	100	"		10	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

By Act III., 1864, of the Bengal Council, this Act is to cease to have effect in any place to which that Act is extended.

ARMS AND GOVERNMENT PROPERTY.

ACT No. XIII. OF 1858.

[*Received the assent of the G. G. on the 4th April*, 1858.

1, 2. In proclaimed districts persons in possession of arms, &c., being Government property, to deliver them up; or (2) in default be liable to specified punishment.

3. Offences under this Act may be tried by whom.

4, 5. Act not to affect Act XVI., 1857; (5) to continue in force 2 years.

An Act for the punishment of persons who unlawfully possess or conceal arms or other property belonging to Her Majesty or to the East India Company.

Expired, April, 1860.

MADRAS MINORS.

ACT No. XIV. OF 1858.

[*Received the assent of the G. G. on the 9th April*, 1858.

1. Vests the control of the education of male Minors in Zillah Judge in certain cases; in other cases in Judge nominated by Sudder Court.
2. Vests in such Judge power under Act XXI., 1855, ss. 2, 3, 4, 5.
3. Vests in Zillah Judge right of custody of male Minors in certain cases.
4. Proceedings of Judge subject to revision by Sudder Court.

An Act to extend the provisions of Act XXI. of 1855 in the Presidency of Fort St. George to Minors not subject to the superintendence of the Court of Wards.

Preamble.

Whereas, by Section XX., Regulation V., 1804, and Section III., Regulation X., 1831, of the Madras Code, the Zillah Courts, subject to the confirmation of the Sudder Adawlut, are authorised and required to appoint guardians to the Minor heirs of property of every description not subject to the jurisdiction of the Court of Wards, and by Clause 9, Section XXI., of the former Regulation, the guardians are required to provide for the education of their Wards in a manner suitable to their rank and condition; and whereas, by Act XXI. of 1855, better provision has been made for the education of Minors subject to the superintendence of the Court of Wards, and it is expedient that the same powers which are thereby given to the Collectors and Court of Wards in respect of the Minors under their superintendence should be exercised by the Zillah Courts, subject to the control of the Sudder Adawlut, in respect of the Minors for whom they are required to appoint guardians, it is enacted as follows:

General superintendence and control of the education of the Minor Wards vested in Zillah Judges.

I. The general superintendence and control of the education of every male Minor, for whom a guardian has been or shall be appointed by the Zillah Court, is hereby vested in the Judge

of the Zillah Court of the District within whose jurisdiction such Minor's estate is situate; or, if such Minor is possessed of immoveable property within the jurisdiction of more than one Zillah Court, in the Judge of such Court as the Sudder Adawlut shall direct.

Power of Zillah Judges.

II. The Judge of the Zillah Court, subject to the control of the Sudder Adawlut, is hereby authorised to exercise in respect of such Minor and the guardian of such Minor all the powers and authorities which, by Sections II., III., IV. and V., Act XXI., of 1855, the Collector of Revenue or the Court of Wards is authorised to exercise in respect of Minors and guardians of Minors, whose property is under the management of the Court of Wards.

The right to the custody of the person of a male Minor vested in guardian appointed by the Zillah Judge with the confirmation of Sudder Court.

III. The right to the custody of the person of every male Minor, for whom a guardian is appointed by the Judge of the Zillah Court is hereby vested in the person appointed by the Judge of the Zillah Court, with the confirmation of the Court of Sudder Adawlut, either originally or upon the removal of a former guardian, to be the guardian of such Minor.

Appeal from the orders of a Zillah Judge to lie to Sudder Court.

IV. All orders and proceedings of a Judge of a Zillah Court under the provisions of this Act shall be subject to the revision of the Court of Sudder Adawlut, and every person aggrieved by any such order or proceeding may prefer an appeal therefrom to the Court of Sudder Adawlut.

ADEN.—PORT-DUES.

Act No. XV. of 1858.

[*Received the assent of the G. G. on the* 14*th April*, 1858.

1, 2, 3, 4, 5. Establishes a tonnage rate on sea-going-vessels entering port except (2) when driven back by stress of weather; (3) but no vessel chargeable more than once in a month; and (4) only half rate chargeable on vessel not breaking bulk; and (5) three-fourths on vessel entering in ballast.

6. Act to commence 1st May, and rates to be notified in "Gazette."

7. Act to be read as part of former Act.

An Act for the levy of Port-dues in the Port of Aden.

Preamble.

Whereas it is necessary to fix the amount of the Port-dues to be hereafter levied and taken in the Port of Aden, in accordance with the provisions of Act XXII. of 1855, it is enacted as follows:

Port-due on sea-going vessels of ten tons and upwards entering Port.

I. A Port-due, at a rate not exceeding the rate of one anna for every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards (except fishing boats) which shall enter the said Port.

No Port-due on vessels compelled by stress of weather to re-enter Port.

II. Provided that no such due shall be chargeable in respect of any vessel which, having left the Port, is compelled to re-enter it by stress of weather, or in consequence of having sustained any damage. [Repealed by Act IV., 1863, of the Bombay Council.]

No vessel to pay Port-due oftener than once a month.

III. The Port-due chargeable under this Act shall not be chargeable oftener than once in the same calendar month in respect of the same vessel.

Port-due on vessels leaving Port within seven days without breaking bulk.

IV. Vessels entering the Port, and leaving the same within seven days without discharging or taking in any cargo or passenger therein, shall be charged with one-half only of the Port-due which would otherwise be chargeable.

Vessels entering the Port in ballast.

V. Vessels entering the Port in ballast shall be charged with three-fourths of the Port-due which would otherwise be chargeable.

Commencement of Act.

VI. This Act shall commence and have effect on the First day of May, 1858; and the Local Government shall on or before that date, pursuant to Section XLII., Act XXII., of 1855, declare, by notification to be published in the "Bombay Gazette," the rates at which Port-dues shall be levied in the said Port subject to the provisions of and within the limits prescribed by this Act; and from and after the said date, no Port-due or fee shall be levied at the said Port, except under the authority of Act XXII. of 1855, and of this Act.

Rates of Port-dues to be published.

No other Port-dues or fees to be levied.

Act to be read as part of Act XXII. of 1855.

VII. This Act shall be read with and taken as a part of Act XXII. of 1855.

Amended by Act IV., 1863, of the Bombay Council.

NEILGHERRIES, OOTACAMUND.—CRIMINAL JURISDICTION.

ACT No. XVI. OF 1858.

[*Received the assent of the G. G. on the 14th April,* 1858.

1. Extends Act XXV., 1855, to new Criminal Court of Ootacamund.

An Act to extend Act XXV. of 1855.

Preamble.

Whereas it may be found expedient to establish at Ootacamund on the Neilgherry Hills a Subordinate Criminal Court constituted according to Regulation II., 1827, of the Code of Fort Saint George, it is enacted as follows:

Act XXV. of 1855 to apply to commitments made by a Subordinate Criminal Court at Ootacamund.

I. When the Governor in Council of Fort Saint George shall establish at Ootacamund on the Neilgherry Hills a subordinate Court constituted according to Regulation II., 1857, of the Code of Fort Saint George, the provisions of Sections I. and II. of Act XXV. of 1855, shall apply to commitments made by such Court; and it shall be lawful for the Judge of such Court to exercise, by appointment of the Government of Fort Saint George, all the powers of a Joint Magistrate.

Judge of such Court to exercise powers of a Joint Magistrate.

CAMBAY GULF.—LIGHT-DUES.

ACT No. XVII. OF 1858.

[*Received the assent of the G. G. on the 20th April,* 1858.

1, 2. Repeals Bombay Regulation 6, 1831, and Act 1, 1836; (2) from 1st May

An Act to repeal the Laws relating to the levy of Light-dues at Ports within the limits of the Gulf of Cambay.

Preamble.

Whereas provision has been made by law for raising a Fund by the levy of Port-dues in certain Ports within the limits of the Gulf of Cambay, which Fund will be available as well for the construction and maintenance of Light-houses within the said limits, as for expenses incurred on account of any of the said Ports, and it is therefore

no longer necessary to levy Light-dues at any Ports within the said limits, it is enacted as follows:

Laws repealed.

I. Regulation VI., 1831, of the Bombay Code, and Act I. of 1836, are hereby repealed.

Commencement of Act.

II. This Act shall commence and have effect from and after the 1st day of May, 1858.

MADRAS PORT REGULATIONS.

Act No. XVIII. of 1858.

[*Received the assent of the G. G. on the 27th April*, 1858.

1, 2. Extends Act XXII., 1855, ss. 16, 24, 55, 57, to Scheduled ports.

An Act for the regulation of certain Ports within the Presidency of Fort Saint George.

Preamble.

Whereas it is expedient to provide for the safety of vessels and the convenience of traffic in Ports within the Presidency of Fort Saint George, declared under Section XXIV., Act VI., of 1844, to be Ports for the landing and shipment of merchandize, but to which the general provisions of Act XXII. of 1855, are not suitable, it is enacted as follows:

Sections XVI. and XXIV., Act XXII., of 1855, to be applicable to certain Ports.

I. The provisions contained in Sections XVI. and XXIV. of Act XXII. of 1855, shall be applicable to the Ports mentioned in the Schedule to this Act annexed, being Ports declared by the Governor in Council of Fort Saint George, under Section XXIV., Act VI., of 1844, to be Ports for the landing and shipment of merchandize; and may be enforced by any Magistrate to whose ordinary jurisdiction any such Port is subject; and any penalties imposed by such Magistrate, and any expenses incurred by his order under the said provisions, shall be recoverable respectively in the manner provided in Sections LV. and LVII. of the said Act XXII. of 1855.

Recovery of penalties and expenses.

Consent of Principal Officer of Customs or other Officer necessary for discharging ballast, &c.

II. In any of the said Ports, the consent referred to in Section XXIV. of the said Act XXII. of 1855, may be given by the Principal Officer of Customs at such Port, or by any other Officer in that behalf appointed by Government.

SCHEDULE.

Districts.	Ports.
Ganjam	Ganjam Monsoorcottah Sonnapore Barwah Poondy Bauvanapaudoo Calingapatam Guddalapaudoo
Vizagapatam	Conadah Poodeermerkah Watadah Cotapatnam Pentacottah Polaveram
Rajahmundry	Woopadah Nursapoor Bendamoorlunka
Guntoor	Nezampatam Eapoorpollem Cottapaulum Putcha Moyale Mootoopully Ching Ganjam Sholagam
Nellore	Cottapatam, in the division of Pandurty Etamoorkala Paukala Rameapatam Toommalapentah Joovaladinah Eskapully Poonapoody Mypaud Kistnapalam Doogarauzepatam Chenneapollem Paumunjy Toopelly Poody. Rauzpatam Pandurty Goondamoola Canoopurty Davarumpaud Elamoorkeela Rauzpollem Chaukeeherla Cazaidoo Bingalapully Vareney Midda Naluntoor Codoor Edoor Wootcoor

SCHEDULE—*Continued.*

Districts.	Ports.	
Nellore—(*Continued*)	Pumbuly Cottapatam, in the Division	of Cottapatam
Chingleput.....	Pulicat Covelong	
South Arcot	Porto Novo Markanum	
Tanjore	Nagore Topetoray Valangany Trimulavassal Codiarpalliam Mootoopettah Adrampatam Ammalipatam Caitoomavady Gopaulpatam Devepatam Hiroopaulacoody Morepunnay Auttenkurray Keelakurray Tondy Karengaudoo Poodoopal Numbetali	
Madura	Dhamoderapatam Theethandathanum Soondorapandiem Arsanagherry Cottapetnam Ramasweram Thungacheenadum Mundapam Pillamadam Vadalay Mercaypatnam	
Tinevelly	Vypaur Coilpatam Coolasagarapatam	
Malabar	Cavay Balleapatam Egaar Darmapatam Calay near Mahe Chombay Baddagherry Mootanguel Kottah Quilandy Trecody Cudaloor Kapaat Eletoor Poodiangaddy Molankadoo Beypoor Tanore	

SCHEDULE—*Continued.*

Districts.	Ports.
Malabar—(*Continued.*)	Parparangaddy Parroney Konany Poottay Veliangode Audatode Manalankoona Choughat Attakooye Koorkooye Maddawye Attepoorum Moolky Munjashwer Cassergode Coombalah Bekul Cautcutcherry Oodiaiver Pudbidry Caup Oachill Yermall Barcoor Cundapoor Naikunkutta
Canara	Byndoor Seeroor Butkul Sheerully Moordesher Munky Coompta Honaver Tuddry Sedashegur Gungavally Aukola Belekerry Chendieyeh Binnagah Oodipy

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STAMPED PAPER.

Act No. XIX. of 1858.

[*Received the assent of the G. G. on the* 11*th May,* 1858.

Recites that during the rebellion the Treasuries were plundered of a large quantity of Stamped Paper.

1. Enacts that no deed, &c., of kind specified in Schedule A. of Bengal

Regulation 10, 1829, on Stamped Paper appearing to have been written after 6th January, 1858, shall be filed in any Court or received in evidence without authentication in a certain manner.

2. The same provision as to Law papers of kind specified in Schedule B. of same Regulation.

3. Notification to be made in "Gazette" of marks, &c., and to distinguish stamps issued after 6th January, 1858.

4, 5, 6. Proclamation to be issued for holders of unused Stamped Paper to bring it in for authentication; and (5) such paper to be authenticated if honestly acquired; and (6) to be detained if not honestly acquired.

7. Authorizes search to be made for stolen Stamped Paper.

8. Interprets words, Collector, &c.

An Act to provide for the authentication of Stamped Paper issued from the Stamp Office in Calcutta.

Preamble.

Whereas, during the recent disturbances, a large quantity of Stamped Paper issued from the Stamp Office in Calcutta, and remaining unsold in several of the Collectors' Treasuries and in the possession of divers Stamp vendors, was plundered, and it is necessary to provide against the unlawful use of such Stamped Paper, and the loss which would ensue to Government from such use thereof, it is enacted as follows:

After passing of Act, no document required by Regulation X., 1829, to be stamped, shall be filed, &c., unless bearing stamps authenticated as prescribed.

I. After the passing of this Act, no deed, instrument, or other writing specified in Schedule A., Regulation X., 1829, of the Bengal Code, and required by that Regulation to be Stamped, and which shall bear date or shall appear to have been written after the passing of this Act, shall be filed, exhibited, or received in any Court of Justice or in any public Office, unless the stamped paper, vellum, parchment, or other material upon which such deed, instrument, or other writing is written, shall either bear such stamp, signature, or other mark as hath been or shall be prescribed by the Governor General in Council or by the Lieutenant-Governor of Bengal for the purpose of distinguishing stamps issued from the Stamp Office in Calcutta after the 6th day of January, 1858, or be authenticated as having been duly purchased by having thereon the signature and official designation either of the Superintendent of Stamps in Calcutta, or of the Collector of some District, or of his Deputy or Assistant, together with the date of such signature.

Authentication of stamps on law-papers mentioned in Schedule B. of Regulation X., 1829.

II. After the passing of this Act, no law-paper specified in Schedule B. of the said Regulation and required by such Regulation to be stamped, shall be filed, exhibited, or received in any Court of Justice or in any public Office, unless such law-paper shall either bear the stamp, signature, or other mark required for distinguishing stamps issued subsequently to the said 6th day of January, 1858, or be authenticated as having been duly purchased by having thereon the signature and official designation either of the Superintendent of Stamps in Calcutta, or of the Collector of some District, or of his Deputy or Assistant, together with the date of such signature.

Notification to be published of distinguishing mark on stamps issued after 6th January, 1858.

III. A notification of the stamp, signature, or other mark prescribed for distinguishing stamps issued from the Stamp Office in Calcutta after the 6th day of January, 1858, shall be published in the "Calcutta Government Gazette," and in such other "Gazettes" as shall be published or shall circulate in any District in which stamps issued from the Stamp Office in Calcutta are used.

Proclamation to be made requiring unused paper, bearing stamps issued prior to the 6th January, 1858, to be sent in for authentication.

IV. In every District in which stamps issued from the Stamp Office in Calcutta are required by the said Regulation X., 1829, to be used, a proclamation shall be issued by the Collector requiring all persons, within a time to be specified in the proclamation, not being less than one month from the date of such proclamation, to cause all unused paper, vellum, parchment, or other material stamped under the provisions of the said Regulation, which may be in their possession not bearing the stamp, signature, or other mark required for distinguishing stamps issued after the 6th day of January, 1858, and which shall not have been authenticated in the manner above required, to be sent in to, or produced at, the Office of such Collector or of his Deputy or Assistant for the purpose of being authenticated or exchanged for new stamps.

Such unused stamped paper if proved to have been honestly acquired, shall be authenticated by the Government Officer.

V. Every person who, within the time specified in the proclamation, or within such further time as the Collector or his Deputy or Assistant shall consider reasonable under the circumstance of any particular case, shall cause to be pro-

duced at such Office as aforesaid, any such unused stamped paper, parchment, vellum, or other material as aforesaid, and shall prove to the satisfaction of the Collector or of his Deputy or Assistant that such stamp was honestly obtained from Government and paid for, shall be entitled to have the same authenticated by such Officer in manner aforesaid, or to have the same exchanged by such Officer for new stamps of the same amount.

Such unused stamped paper if not proved to have been honestly acquired, or if not sent in within prescribed time, to be detained as Government property.

VI. Any such unused stamped paper, parchment, vellum, or other material so sent in or produced as aforesaid, which shall not either bear the stamp, signature, or other mark required for distinguishing stamps issued after the said 6th day of January, 1858, or have been authenticated in manner aforesaid, and which shall not be proved to the satisfaction of the Collector, or of his Deputy or Assistant to have been honestly obtained from Government and paid for, shall be detained by such Officer as Government property; and any such stamped paper, parchment, vellum, or other material, which shall be found in the possession of any person, may be seized by any Magistrate or by any Officer of Police or Revenue Officer, and sent in to the Collector's Office; and if such paper, parchment, vellum, or other material shall be so found after the time required for sending in the same for authentication or exchange, it may be detained as the property of Government.

Police officer empowered to search for and seize authenticated stamped paper.

VII. Any Officer of Police having power by law to search for stolen property may, subject to the provisions under which he is empowered to make such search, proceed to search houses or places in which there may be reasonable cause to suspect that there is any such stamped paper, parchment, vellum, or other material not bearing the stamp, signature, or other mark required for distinguishing stamped paper issued after the 6th day of January, 1858, and not authenticated in manner aforesaid as having been duly purchased from Government, and may seize and transmit to the Collector any such stamped paper as aforesaid.

Interpretation.

VIII. The words "Collector" or "his Deputy or Assistant" shall be deemed to include any Officer exercising the powers of a Collector or of his Deputy or Assistant respectively.

Regulation X., 1829, is repealed by Act XXXVI., 1860.

N. W. PROVINCES.—DISPOSSESSED LANDED PROPRIETORS.

Act No. XX. of 1858.

[*Received the assent of the G. G. on the* 18*th May*, 1858.

1, 2, 3. Empowers Government to appoint Special Commissioners for the summary determination of cases of wrongful dispossession of land; (2) appointment to be proclaimed, and jurisdiction of all other Courts so far to cease; and (3) pending cases to be transferred to Commissioner.

4. Commissioners to be ambulatory.

5, 6, 7, 8, 9. Commissioners to issue proclamation for restoration of lands, &c., within a certain period; (6) at expiration of which Commissioner may entertain claim; and (7) issue process; and (8) fix day for hearing; (9) proceed to adjudication.

10. Compulsory powers of present Courts given to Commissioner.

11. Order of Commissioner to be forthwith executed. Mesne profits when adjudged to be ascertained by Collector.

12. All orders of Commissioner final, but not to bar regular suit afterwards brought.

13, 14. Act may be extended to other Provinces; and continue in force three years.

An Act to facilitate the recovery of land and other real property, of which possession may have been wrongfully taken during the recent disturbances in the North-Western Provinces of the Presidency of Bengal.

Expired, May, 1861.

NATIVE PASSENGER SHIPS AND COASTING STEAMERS.

Act No. XXI. of 1858.

[*Received the assent of the G. G. on the* 25*th May*, 1858.

Recites expediency of providing against the over-crowding of Passenger Ships within Indian Territories.

1. What shall be deemed Native Passenger Ships.

2, 3, 4. Such Ships to depart from and be received at Ports only as may be appointed by Government; and (3) not to depart without certificate; (4) and breaking this law to be liable to penalty.

5, 6, 7, 8, 9. Government to appoint Officer to see to observance of Regulations; (6) to whom the Master of Native Passenger Ship shall give notice; and (7) who shall thereupon inspect Ship, &c.; and (8) may order

survey; and (9) shall not give his certificate unless he shall be satisfied that Ship is sea-worthy, &c., has sufficient space, &c., and proper provisions, &c.

10. Number of Passengers to be in proportion of 2 to 3 tons of registered tonnage.

11, 12, 13. Master of Ship to give lists of Passengers, &c., and (12) not to depart from any port where additional Passengers have been received without fresh certificate, &c., and (13) to be liable to penalty for any Act in fraud of the certificate.

14, 15. Officer at port of departure may transmit particulars respecting the Ship to other ports; and (15) such report, &c., to be received in evidence, &c.

16. Government may declare what shall be deemed proper duration of specified voyage.

17, 18. Prescribes quantity of water and provisions to be shipped; but (18) not to apply to passengers providing for themselves.

19. Masters of Ships coming from foreign ports in Red Sea or Persian Gulf to be liable to penalties for contravention of this Act.

20. Act not to apply to Ships of War, &c., and the like, &c.

21, 22, 23, 25. Passenger Steam Vessels on coasting voyages to have certificate, (22) as to sea-worthiness and state of machinery, &c., and (23) certificate to be posted up in Ship; and (25) penalty incurred by proceeding without certificate.

24. Penalty incurred by violation of terms of certificate.

25. Supra.

26. Government, &c., to have control of Officer granting, &c., certificate, &c.

27, 28. Penalty incurred by wrongfully landing passenger; (28) penalty not to abridge civil right of action of passenger.

29. Cases against the Act to be adjudged summarily; and ship, &c., to be liable for penalties.

30. Case to be within jurisdiction where offender is.

31. Information against Masters and Owners only to be laid by Public Officer.

32. Compensation may be granted out of penalty.

33. Interpretation.

34. Act to commence 1st August, 1858.

An Act for the regulation of Native Passenger Ships, and of Steam Vessels intended to convey Passengers on coasting voyages.

Preamble.

Whereas abuses have occurred in the overcrowding of Ships conveying Native Passengers between Ports and places within the Territories in the possession and under the Government of the East India Company and Ports and places in the Red Sea or Persian Gulf; and whereas it is expedient to prevent such abuses, and to provide

for the regulation of all Ships carrying Native Passengers as aforesaid, which shall depart from or arrive at any of the Ports or places within the said Territories, and also for the regulation of Steam Vessels intended to carry passengers on coasting voyages, it is enacted as follows:

What shall be deemed a "Native Passenger Ship," within the meaning of this Act.

I. Every vessel carrying more than thirty passengers being natives of Asia or Africa, which may depart or proceed on any voyage from a Port or place within the said Territories to any Port or place in the Red Sea or Persian Gulf, or which may arrive at any Port or place within the said Territories from any Port or place in the Red Sea or Persian Gulf, having on board more than thirty such passengers, shall be deemed a Native Passenger Ship within the meaning of this Act.

Native Passenger Ship to sail only from Ports appointed by Government.

II. No Native Passenger Ship shall depart or proceed upon any voyage to which this Act extends from any Port or place within the said Territories other than such ports and places as the Local Government may from time to time appoint; and after any Native Passenger Ship has departed or proceeded upon any such voyage from a Port or place so to be appointed, no person whatsoever shall be received on board as a passenger, except at some other duly-appointed Port or place.

Not to sail without obtaining a certificate.

III. No Native Passenger Ship shall depart or proceed upon any such voyage from any Port or place appointed under this Act, until the Master shall have obtained a certificate from an Officer authorised to grant the same.

Penalty.

IV. If any Native Passenger Ship departs or proceeds upon a voyage from any Port or place within the said Territories, or if any person is received as a passenger on board a Native Passenger Ship in contravention of the provisions of the last two preceding Sections, the Owner or Master shall be liable to a penalty not exceeding one hundred Rupees for every passenger conveyed on a Ship unlawfully departing or proceeding on such voyage, or for every passenger unlawfully received on board; and the Ship, if found within two years in any place within the said Territories, may be seized and detained by any Chief Officer of Customs until the penalties

incurred under this Act have been adjudicated; and the payment thereof, with all costs, have been enforced under the provisions of Section XXIX.

Appointment of Officers.

V. The Local Government shall appoint such persons as it may deem proper to exercise or perform the powers and duties conferred or imposed by this Act.

Master to give notice of day of sailing, &c.

VI. The Master of any Native Passenger Ship sailing from any Port or place appointed under this Act, shall give notice to the proper Officer that the Ship is to carry Native Passengers, and of her destination, and of the proposed day of sailing; such notice shall be given not less than three days before the proposed day of sailing.

Power to enter and inspect Ship.

VII. After receiving such notice, the Officer aforesaid, or any persons authorized by him, shall be at liberty at all times to enter and inspect the Ship and the fittings, provisions, and stores therein; and any person impeding or refusing to allow such inspection, shall be liable, on conviction, to a penalty not exceeding five hundred Rupees for each offence.

Ship may be surveyed.

VIII. The Officer aforesaid may, if he think fit, cause the Ship to be surveyed at the expense of the Master by a competent surveyor, who shall report whether the Ship is, in his opinion, sea-worthy and fit for her intended voyage.

Officer to be satisfied before giving certificate.

IX. The Officer aforesaid shall not give his certificate, unless he shall be satisfied—

That the ship is sea-worthy.

1. That the Ship is sea-worthy and properly manned, equipped, fitted, and ventilated; and has not on board any cargo likely, from its quality, quantity, or mode of stowage, to prejudice the health or safety of the passengers.

That the space between-decks for passengers is sufficient.

2. That the space appropriated to the passengers in the between-decks contains at the least nine superficial and fifty-four cubical feet of space for every adult passenger on board, that is to say, for every passenger above twelve years of age, and for every two passengers between the ages of one year and twelve years.

That the space on the upper deck is sufficient.

3. That a space of four superficial feet per adult is left clear on the upper deck for the use of the passengers.

That there is a due supply of provisions.

4. That provisions, fuel, and water have been placed on board, of good quality, properly packed, and sufficient to supply the passengers on board during the declared duration of the intended voyage, according to the scale hereinafter contained.

Number of passengers.

X. No such Ship shall carry any greater number of passengers than, together with the Master and crew, shall amount to the proportion of two persons for every three tons of the registered or estimated tonnage of the Ship.

List of passengers.

XI. The Master of any such ship, before departing or proceeding on any such voyage from any Port or place within the said territories, shall sign two lists specifying (as accurately as may be) the names of all the passengers, and stating the number of the crew; and shall deliver them to the Officer aforesaid, who shall thereupon (after having first mustered the passengers and compared the number and names of such passengers with the lists) countersigned and returned to the Master one of such lists. The Master shall note in writing on such last-mentioned list, and on any additional list to be made under this Act, the date and supposed cause of death of any passenger who may die on the voyage, and shall forthwith, on the arrival of the Ship at her destination or at any Port in the said territories at which it may be proposed to land passengers, and before any passengers are landed, produce the list, with any additions thereto made, to any person lawfully exercising Consular authority on behalf of Her Majesty at the Port of arrival if it be a Foreign Port, or to the Chief Officer of Customs, or the Officer (if any appointed under this Act) at any Port or place within the said territories at which it shall be intended to land the passengers or any of them. In case of non-compliance with any of the requirements of the Section on the part of the Master, or if any false entry be wilfully made in any such list, the Master shall be liable to a penalty not exceeding five hundred Rupees for each offence.

XII. If, after the Ship shall have departed or proceeded on

Ship taking additional passengers and touching at intermediate Port.

any such voyage, any additional passengers are taken on board at a Port or place, within the said territories, appointed under this Act for the embarkation of passengers, or if such Ship shall, upon her voyage, touch or arrive at any such Port, having previously receive on board additional passengers at any place out of the said territories, the Master shall obtain a fresh certificate from the Officer at such Port, and lists of all such additional passengers shall be made; and all the provisions hereinbefore contained in that behalf shall be applicable to any certificate to be granted or any list to be made under this Section.

Penalty for fraudulent alteration in ship after certificate obtained.

XIII. If any Master of a Ship, after having obtained a certificate under Section III. or Section XII. of this Act, shall fraudulently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the ship, its passengers, or other matters to which such certificate relates, he shall be liable to a penalty not exceeding two thousand Rupees.

Information to be transmitted to ports of embarkation.

XIV. The Chief Officer of Customs, or the Officer (if any) appointed under this Act, at any Port or place within the said territories at which the ship shall touch or arrive, shall, with advertence to the requirements of this Act, transmit any particulars which he may deem important respecting the ship and the passengers conveyed therein, to the Officer at the Port from which the ship commenced her voyage, and also to the Officer at any other Port within the said territories where the passengers or any of them embarked.

Report of Consul, &c., to be admissible in evidence.

XV. In any proceeding for the adjudication of any penalty incurred under this Act, any document purporting to be a report of such particulars as are referred to in the last preceding Section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising Consular authority on behalf of Her Majesty in any Foreign Port, shall be received in evidence, if the same appears to have been officially transmitted to any Officer at or near the place where the proceeding under this Act is had.

Length of voyage to be fixed by proclamation.

XVI. It shall be lawful for the Local Government, by any proclamation to be from time to time issued for that purpose and published in the "Government Gazette" (if any), or in one of the public newspapers, to declare what shall be deemed, for the purposes of this Act, the duration of the voyage of any Native Passenger Ship from any Port or place to any other Port or place.

Quantity of provisions and water to be shipped.

XVII. Every Native Passenger Ship, at the time of departure from the Port or place at which passengers shall be embarked under this Act, shall have on board good and wholesome provisions for the use and consumption of the passengers, over and above the victualling of the crew, to the amount or in the proportion following, that is to say, a supply of water to the amount of five gallons to every week of the computed voyage for every passenger on board, such water being carried in tanks or sweet casks, and a supply of rice, flour, oatmeal, or bread stuffs to the amount of seven pounds weight to every week of the computed voyage for every such passenger; provided always that, when any such Ship shall be destined to call at a Port or place in the course of her voyage for the purpose of filling up her water-casks, a supply of water at the rate before mentioned for every week of an average voyage to such Port or place of calling, shall be deemed to be a compliance with this Act. The provision of this Section regarding food shall be deemed to have been complied with in any case where it shall appear that, by the special authority of the Local Government, any other articles of food were substituted for the articles above enumerated as being equivalent thereto.

Contract by passengers for supply of their own provisions.

XVIII. The requirements of this Act respecting the supply of provisions for passengers shall not, except as to the supply of water, be applicable to any passenger who may have contracted to furnish his own provisions.

Penalty on ships bringing excessive number of passengers from certain foreign Ports to Indian Ports.

XIX. If any ship, bringing passengers from any Port or place in the Red Sea, or Persian Gulf to any Port or place within the said territories, shall have on board a greater number of passengers or persons than in the proportion prescribed

by this Act, the Master of such ship shall, in addition to any other penalty which he may have incurred under the provisions of this Act, be liable, on conviction, to a penalty not exceeding fifty Rupees for each person in excess of such proportion.

Act not to apply to Ships-of-War, &c.

Or to sea-going Steam Vessels conveying public mails.

XX. Nothing in the foregoing provisions of this Act contained shall apply to any Ship-of-War or Transport belonging to or in the service of Her Majesty or of the East India Company, or to any Ship-of-War belonging to any Foreign Prince or State, or to any Ship under contract with the Government of any European State, or to any sea-going Steam Vessel regularly employed in the conveyance of the public mails under a contract.

Certificates to be furnished to Coasting Steam Vessels intended to carry passengers.

XXI. Steam Vessels which may be intended to carry passengers on coasting voyages from or to any Port or place whatsoever within the said territories, shall before proceeding on such voyages, be furnished with certificates to be granted in the manner hereinafter provided.

Certificates to Coasting Steam Vessels, how to be granted, &c.

XXII. Every such certificate shall be granted at the discretion of an Officer authorised to grant the same by the Local Government, and shall remain in force for the period therein specified, unless sooner revoked. The Officer so authorised shall not grant such certificate, or suffer the same to remain in force, unless he is satisfied, by inspection or survey (to be made at least twice in each year at the expense of the Master or Owner, and upon payment of a fee not exceeding twenty Rupees), that such Steam Vessel is sea worthy and properly equipped with boats and otherwise, and that the engines and machinery are in a fit state to enable her to proceed on her voyage. The certificate shall state the limits (if any) within which the Vessel is to ply, and the number of Native Passengers which the Vessel is permitted to carry; such number to be subject to such conditions and variations according to the time of year, the nature of the voyage and the cargo carried, as the case requires.

Copy of certificate to be placed in conspicuous part of Ship.

XXIII. The Owner or Master of any such Steam Vessel shall put up in a conspicuous part of the Ship, so as to be visible to persons on board the

same, a copy of the said certificate, and shall cause it to be continued in such position so long as the certificate remains in force; and in default, such Owner or Master shall for each offence be liable to a fine not exceeding two hundred Rupees.

Penalty for excess of number specified in certificate.

XXIV. If such Steam Vessel has on board thereof any number of passenger which, having regard to the time of year and other circumstances, is greater than the number allowed by the certificate, the Owner or Master shall be liable to a fine not exceeding twenty Rupees for every passenger over and above the number allowed by the certificate.

Penalty for proceeding without certificate.

XXV. If any such Steam Vessel shall proceed on any such voyage without such certificate as aforesaid, the Owner or Master shall be liable to a fine not exceeding five hundred Rupees.

Grant of certificate to be subject to control of Government.

XXVI. In the grant or revocation of any certificate whatsoever under this Act, the Officer granting the same shall be subject to the control of the Local Government or of any intermediate authority which that Government may appoint.

Penalty on landing passenger at a place other than that at which he has contracted to land.

XXVII. If any Native Passenger in any Ship shall be landed at any Port or place other than the Port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the Master shall, for each offence, be liable to a penalty not exceeding two hundred Rupees.

Passengers' right of action preserved.

XXVIII. Nothing in this Act contained shall take away or abridge any right of action which may accrue to any Native Passenger, or to any other person, in respect of the breach or non-performance of any contract made with the Master or Owner of the Ship or his Agent.

Adjudication of offences and recovery of penalties.

XXIX. All offences against this Act shall be punishable in a summary manner by a Magistrate. If the person directed to pay any penalty is the Master or Owner of a Ship, and the same

is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the means prescribed by law for enforcing payment, direct by warrant, the amount remaining unpaid to be levied by distress and sale of the said Ship, her tackle, furniture, and apparel.

Sum ordered to be paid leviable by distress on Ship.

XXX. For the purpose of the adjudication of penalties under this Act, any offence shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Jurisdiction.

XXXI. The penalties to which Masters, and Owners of Ships are liable by this Act, shall be enforced only by information laid at the instance of the Officers appointed to grant certificates under this Act; or at any Port or place where there is no such Officer, by the Chief Officer of Customs.

By whom proceedings for penalties to be instituted.

XXXII. Any Magistrate imposing any penalties under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings.

Application of penalties.

XXXIII. The word "Magistrate" in this Act shall include a Magistrate of Police appointed under Act XIII. of 1856, a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate, and at the Port of Aden the Political Resident and his Assistant.

Interpretation. "Magistrate."

The words "Local Government" shall mean the person or persons for the time being immediately administering the Executive Government of that portion of the said territories where the Port or place in question is situate.

"Local Government."

The word "Master" shall include every person having command or charge of a Ship or Steam Vessel.

"Master."

XXXIV. This Act shall commence and take effect from and after the 1st day of August, 1858.

Commencement of Act.

See Act II., 1860, some of the provisions of which are extended to voyages from certain Ports under this Act.

TRANSPORTATION.

Act No. XXII. of 1858.

[*Received the assent of the G. G. on the 2nd June*, 1858.

1. Continues Acts 14, 16 and 17, of 1857, until end of 1859.
2. Sentences of imprisonment for three years may be carried out by transportation, unless the G. G. in C. shall otherwise order.

An Act to continue in force for a further period Acts XIV. of 1857, XVI. of 1857, and XVII. of 1857, and to authorize in certain cases the transportation of offenders sentenced to imprisonment.

Expired at the end of the year 1859.

KURNOOL, MADRAS.

Act No. XXIII. of 1858.

[*Received the assent of the G. G. on the 12th June*, 1858.

1. Repeals Act X., 1843.
2. Transfers Kurnool to Madras.

An Act for bringing the District of Kurnool under the Laws of the Presidency of Fort Saint George.

Preamble.

Whereas it is expedient that the District of Kurnool should be brought under the Laws of the Presidency of Fort Saint George, it is enacted as follows;

Act repealed.

I. Act X. of 1843 is hereby repealed.

Kurnool placed under the operation of the general Laws.

II. It is hereby enacted, that from and after the First day of July, 1858, the District of Kurnool shall be subject to the Laws in force for the administration of Justice and Collection of the Revenue in the several Zillahs and Collectorates under the Presidency of Fort Saint George.

NABOB OF CARNATIC.

Act No. XXIV. of 1858.

[*Received the assent of the G. G. on the 22nd June*, 1858.

1, 2. Prohibits process against persons protected by Act I., 1844, without consent of G. in C., and (2) makes all process contrary to the Act null and void.

An Act to continue for six months the privileges granted by Act I. of 1844, to certain members of the family, household, and retinue of his late Highness the Nabob of the Carnatic.

Expired. Act XXXVII., 1858, continues certain privileges, &c., to the family, and is in substitution for this Act.

BOMBAY.—MUNICIPAL.

Act No. XXV. of 1858.

[*Received the assent of the G. G. on the 7th July*, 1858.

1. Repeals 33 Geo. III., c. 52, s. 158; Bombay Regulation 19, c. 2 (except s. 13 thereof), cls. 4 and 6, of 1827; Act VII., 1836, as respects those Sections; Bombay Regulation 32, 1827, Act XI., 1845.

2. Continues existing assessment until revised.

3. Act XXV., 1856, to be read with this Act.

4, 5. Directs appointment of three Conservancy Commissioners; (5) to be styled how.

6. The Government Commissioner to be removeable by Government; the elected ones to remain for three years.

7, 8, 9. Commissioners to meet weekly; and (8) be paid; and (9) on specified matters to be under control of justices.

10. Rates of 5 per cent. to be levied on house, &c., and may be raised to 7½ per cent., by order of Government.

11, 12, 13. Exempts religious edifices, &c., and (12) Government buildings to be exempt in consideration of a fixed annual sum; and (13) houses, &c., not exceeding certain value may be exempted.

14. Authorizes remission of rates in certain cases.

15, 16. Establishes a tax on carriages and horses, &c., except (16) gun-waggons, &c.

17. Tax to be for a quarter, though ownership may have been for less.

18. Exempts carriages at coach makers for repair, &c.

19. Authorizes composition with livery stable keepers.

20, 21. Carriages, &c., to be registered; and (21) penalty incurred by neglect to register.

22, 23, 24. Establishes town duties on certain imports; (23) to be levied, &c., through customs officers; but (24) paid to Municipal Fund.

25. G. in C. may direct what accounts, &c., shall be kept.

26, 27, 28. Establishes the Municipal Fund; (27) out of which all municipal expenses to be paid; and (28) to be under direction of Commissioners.

29, 30, 31. Municipal Fund to contribute to expense of Police; and (30) to water works; and (31) to drainage.

32. Gives a remedy for expenses incurred by Commissioners under Act XIV., 1856, &c.

Schedule of import duties.

An Act for appointing Municipal Commissioners and for raising a Fund for Municipal purposes in the Town of Bombay.

Repealed by Act II., 1865, of the Bombay Council.

STATE OFFENCES.

Act No. XXVI. of 1858.

[*Received the assent of the G. G. on the 7th July*, 1858.

1. Persons owing allegiance preparing to levy war, &c., to be liable to capital punishment, &c.

2. Persons harbouring such, liable to imprisonment.

3. Persons having knowledge of offences and not making known same, liable to imprisonment.

4. Extends provisions of Acts XI. and XIV., 1857, and Act XXII., 1858, to this Act.

5, 6. Act not to apply to British people; and (6) to continue in force till end of 1859.

An Act to make further provision for the trial and punishment of offences against the State.

Expired.

GOVERNOR GENERAL.

Act No. XXVII. of 1858.

[*Received the assent of the G. G. on the 27th July*, 1858.

Continues Act IV., 1858, for 6 months, from the 30th July, 1858.

An Act to continue in force for a further period of six months, Act IV. of 1858, for providing for the exercise of certain powers by the Governor General during his absence from the Council of India.

Expired on the 31st January, 1859.

MADRAS.—POLICE.

ACT NO. XXVIII. OF 1858.

[*Received the assent of the G. G. on the* 31*st July*, 1858.

Recites expediency of increasing the police force at Madras.

1. Boat owner conveying cargo between ship and shore to receive increased hire, &c.

2, 3. Cargo boat to be accompanied by police officer; and (3) in default to be liable to fine, &c.

4, 5. Boat owner to make return of number of trips, &c.; and (5) in default be liable to penalty.

6, 7. Boat owner to pay weekly amount received under this Act; (7) for the General Treasury.

8. Convictions to be quashed only on the merits.

9. Act not to apply to boats conveying the mails or passengers only.

10, 11. Extends Act XIII, 1856; and (11) Act to take effect from date.

An Act for the maintenance of a Police Force for the Port of Madras.

Preamble.

Whereas it is expedient to make further provision for the security of the traffic between the shore and the shipping in the Port of Madras, by increasing the Police Force; and whereas it is just and expedient that the said traffic should contribute towards the expense and maintenance of the said force, it is enacted as follows:

Additional charge on the hire of boats carrying cargo or goods.

I. To meet the expense of such an increase to the Police Force, established under the provisions of Act XIII. of 1856 (*for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlements of the Prince of Wales' Island, Singapore, and Malacca*) as may be necessary for the purposes of this Act, the sum of three annas shall be charged and taken by the owner of every boat employed to convey cargo or goods to or from any ship or vessel in the Port of Madras, in addition to the hire payable under Act IV. of 1842 (*for the better management of boats and catamarans in the Madras roads, and for the amendment of certain Harbour Regulations*).

No cargo to be conveyed, unless boat be accompanied by a Police Officer.

II. No cargo or goods of any description shall be conveyed in any boat to or from any ship or vessel in the Port of Madras unless accompanied by an Officer of the Police Force, and it shall be the duty of the Commissioner of Police to

provide every such boat with an Officer of the Police Force for this purpose.

Penalties.

III. The owner of any boat and the tindal and boatmen for the time being employed in any boat in which any cargo or goods shall be conveyed to or from any ship or vessel in the Port of Madras without having an Officer of the said Force on board of such boat, and every boat owner, tindal, and boatman, who shall either hinder any such Officer from accompanying any such boat, or shall obstruct him in the performance of his duty when in any such boat, shall, on conviction before a Magistrate, be liable as follows:—Every boat owner for the first offence to a penalty not exceeding fifty Rupees, and for a second or any subsequent offence to a penalty not exceeding one hundred rupees; every tindal for the first offence to corporal punishment not exceeding twenty stripes of a rattan, and for a second or any subsequent offence to corporal punishment not exceeding twenty-five stripes of a rattan; and every boatman for the first offence to corporal punishment not exceeding fifteen stripes of a rattan, and for a second or any subsequent offence to corporal punishment not exceeding twentystripes of a rattan.

Owner to make a weekly return of trips.

IV. Every boat owner shall on every Monday make to the Commissioner of Police, or to such other person as the said Commissioner of Police shall appoint to receive the same, a return in writing, signed by such boat-owner, of the number of trips made by each of his boats on each day during the preceding week.

Penalty for neglecting to make return, and for making false return.

V. Every Boat owner who shall neglect to make such return as in the next preceding Section specified, shall, on conviction before a Magistrate, be liable for a first offence to a penalty not exceeding fifty Rupees, and for a second or any subsequent offence to a penalty not exceeding one hundred Rupees; and every boat-owner who shall make a false return shall be liable to a penalty not exceeding three hundred Rupees, and to the forfeiture of all licenses which he may hold under the provisions of Act IV. of 1842.

Boat owner to pay weekly to the Commissioner of Police the sums charged under this Act.

VI. Every boat owner shall on every Monday pay to the said Commissioner of Police, or to such other person as the said Commissioner of Police may appoint to receive the same, the said sum of

three annas for every trip made by any boat belonging to them, employed in conveying cargo or goods according to the weekly return to be made by him as hereinbefore directed; and in default of such payment, one or more of the boats of any boat owner making such default may be seized and sold by virtue of a warrant under the hand and seal of a Magistrate until the amount so due by such boat owner and the expenses of sale shall be realized; and such amount, when realized, shall be forthwith paid to the said Commissioner of Police.

Moneys received under this Act to be paid into the General Treasury.

VII. All moneys paid to or received by the said Commissioner of Police under this Act shall be paid by him at least once a month, into the General Treasury of Fort Saint George.

Conviction to be quashed on merits only. Form of conviction, &c.

VIII. No conviction, order, or judgment of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order or judgment in obedience to any writ of *certiorari;* and if no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Act not to apply to boats conveying only mails or passengers with their baggage.

IX. None of the foregoing provisions of this Act shall be taken or deemed to extend or apply to any boat which shall convey only mails or passengers with their baggage to or from any ship or vessel in the Madras roads.

Powers, &c., of the Commissioner of Police and the Police Force within the Port of Madras.

X. From and after the passing of this Act it shall be lawful for the Commissioner of Police and the Members of the Police Force at Madras to exercise, within the limits of the Port of Madras as defined under the provisions of Act XXII. of 1855 (*for the regulation of Ports and Port-dues*), all powers given to them respectively by Act XIII. of 1856, or which may be lawfully exercised by Constables within the local limits of the jurisdiction of the Supreme Court; and all provisions of the last-mentioned Act applicable to the said Commissioner and Police Force at

Madras shall apply to them respectively in the execution of the powers hereby given. [Act XIII., 1856, has been repealed. See Note to that Act.]

When this Act shall take effect.

XI. This Act shall take effect from and after such day as shall be notified in the Official Gazette by the Governor in Council of Fort Saint George.

N. W. PROVINCES.—CIVIL COURTS.

Act No. XXIX. of 1858.

[*Received the assent of the G. G. on the 31st July*, 1858.

1, 2. Extends time for process when Courts have been suspended, until certain time after their restoration; and (2) gives Court discretion to extend in certain cases.

3. Application for admission of appeal may be made where.

4. Stamps necessary in all new suits, &c., but not in revived suits.

5. In suits instituted after 10th May, 1857, objection that they were too late not to be taken.

6. Certificate of Judge to be conclusive as to his Court having been suspended.

7. Act may be extended by G. G. in C.

An Act for the relief of persons who, in consequence of the recent disturbances, have been prevented from instituting or prosecuting suits or appeals in the Civil Courts of the North-Western Provinces within the time allowed by law.

Expired.

NABOB OF CARNATIC.

Act No. XXX. of 1858.

[*Received the assent of the G. G. on the 24th August*, 1858.

Recites Act I., 1844, and state of late Nabob's affairs.

1, 2, 3. G. in C. to appoint a Receiver to administer the estate of the late Nabob under the Supreme Court; (2) who is to be paid by a Commission; and (3) be removeable by G. in C.

4, 5, 6. Receiver to represent the estate; and (5) have power to collect estate, &c.; and (6) to sell and dispose of immoveable property.

7. Receiver to be subject to Supreme Court.

8, 9, 10. Creditors may sue as by Act VI., 1854; and (9) Court may make usual decree for account, &c.; and (10) usual consequences to creditors not coming in, &c.

11, 12. Court may require proof of validity of conveyances by late Nabob; and (12) may declare absolute conveyances to be mere mortgage charges, &c.

13. Creditors to sue only under provisions of this Act.

14, 15. Creditors submitting their claims to decision of Supreme Court to be entitled, (15) not to have past settlements disturbed, but to have 6 per cent. interest, &c.

16. Creditor must bring in all claims for adjudication.

17. Assignment of claims since Nabob's death, &c.; invalid, unless *bonâ fide* and for value, &c.

18, 19, 20, 21. Isinfa Cutcherry Bond Creditor, &c., to be within sec. 14; but (19 and 20) such creditor may prove his debt, and (21) Government may consent to an order for payment.

22. Claim of such creditor may be investigated in a summary manner.

23. Permits fees of Court in these cases.

24. E. I. C. may appear by Counsel; also claimant.

25, 26. Claim to be paid by Receiver, or by the Treasury; and (26) in certain cases the E. I. C. shall re-imburse the Receiver.

27. Gives immunity from action for acts done under this Act, &c.

28. Exempts from power of Receiver certain classes of persons.

An Act to provide for the administration of the Estate and for the payment of the debts of the late Nabob of the Carnatic.

Amended by Act II., 1859; explained by Act XVI., 1859, which was repealed by Act XXXVII., 1860, and a new Act substituted for it, Act XXXVIII., 1860.

Explained by Act XXXVIII., 1860.

BENGAL.—ALLUVIAL LAND.

Act No. XXXI. of 1858.

[*Received the assent of the G. G. on the 24th August*, 1858.

1. Assessment for alluvial land may be added to rent of original estate, by agreement; otherwise may be kept separate.

2. Under-tenants may be charged for alluvial land, and their rights to be recorded.

3. Confirms all antecedent settlements.

An Act to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.*

* This title refers to act XI., 1847, which is entitled "An Act regarding the assessment of lands gained from the Sea or from Rivers by alluvion or dereliction within the provinces of Bengal, Behar and Orissa."

Preamble.

Whereas, for the removal of doubts respecting the course proper to be, followed in the settlement of land added by alluvial accession to estates paying Revenue to Government, it is expedient to lay down certain rules to be observed in the settlement of such land, it is enacted as follows:

In what case the Revenue assessed upon alluvial land may be added to the jumma of the original estate.

I. When land added by alluvial accession to an estate paying Revenue to Government becomes liable to assessment, if it be so agreed on between the Revenue authorities and the proprietor or proprietors, the Revenue assessed upon the alluvial land may be added to the jumma of the original estate; and in such case a new engagement shall be executed for the payment of the aggregate amount, and that amount shall be substituted in the Collector's rent-roll for the former jumma of the original estate. If the proprietor or proprietors object to such an arrangement, or if the Revenue authorities are of opinion that a settlement of the alluvial land cannot properly be made for the same term as the existing settlement of the original estate, the alluvial land shall be assessed and settled as a separate estate with a separate jumma, and shall thenceforward be regarded and treated as in all respects separate from and independent of the original estate, whether the separate settlement be made with the proprietor or proprietors, or the land be let in farm in consequence of the refusal of the proprietor or proprietors to accept the terms of settlement. The separate settlement may be permanent, if the settlement of the original estate is permanent.

In what cases there shall be a separate settlement.

Rights of under-tenants in alluvial land.

II. Nothing contained in the preceding Section shall affect the rights of any under-tenant in any alluvial land under the provisions of Clause I., Section IV., Regulation XI., 1825. It shall be the duty of all Officers making settlements of such land, whether the land be settled separately or incorporated with the original estate, to ascertain and record all such rights according to the rules prescribed in Regulation VII., 1822; and to determine whether any and what additional rent shall be payable in respect of alluvial land by the person or persons entitled to any under-tenure in the original estate. The provisions of the said Regulation, so far as the same

may be applicable, are hereby declared to extend to all settlements made under this Act.

Separate settlements of alluvial lands heretofore made.

III. Every separate settlement of alluvial land heretofore made shall be as good and effectual for the purposes specified in Section I., as the same would have been if made subsequently to the passing of this Act. Provided that nothing contained in this Act shall be held to affect the rights which any person may have acquired, under a judicial decision or otherwise, before the passing of this Act.

Proviso.

MADRAS.—FORT OF TANJORE.

Act No. XXXII. of 1858.

[*Received the assent of the G. G. on the 24th August*, 1858.

1, 2, 3, 4, 5. Brings Fort and territory under the general Laws of the Madras Presidency: but (2) excepts cases decided before the Act; (3) and not appealed within 30 days after decision; (4) cases already decided within 30 days may be appealed to new Jurisdiction; (5) and pending proceeding to be transferred to new Jurisdiction.

6. The general laws in force to apply, except when contrary to equity and good conscience.

7, 8. Decrees to be executed according to Presidency Laws; (8) and Act to be brought in force from date of proclamation.

An Act for bringing the Fort of Tanjore and the adjacent territory under the Laws of the Presidency of Fort St. George.

Preamble.

Whereas it is expedient to bring the Fort of Tanjore and the adjacent territory, which have lapsed to the East India Company in consequence of the death of the Rajah of Tanjore, under the general Laws of the Presidency of Fort St. George, and to make provision for the trial and determination of suits, appeals, and proceedings pending in any of the Courts established by the said Rajah, it is enacted as follows:

Fort of Tanjore and adjacent Territory placed under the General Laws of the Madras Presidency.

I. From and after the day when this Act shall come into operation, the Fort of Tanjore and adjacent Territory shall be subject to the General Laws which are or shall be in force within the Territories subject to the Presidency of Fort St. George.

II. to VIII. Obsolete.

INDIAN NAVY.

Act No. XXXIII. of 1858.

[*Received the assent of the G. G. on the* 11*th Sept.*, 1858.

Excepts from Act XII., 1844, offences by superior Officers, Captains or Commanders or Lieutenants of Indian Navy.

An Act to amend Act XII of 1844 (for better securing the observance of an exact discipline in the Indian Navy).

Obsolete, or Repealed in effect by the abolition of the Indian Navy as a separate service.

SUPREME COURT PROCEDURE—LUNACY.

Act No. XXXIV. of 1858.

[*Received the assent of the G. G. on the* 14*th Sept.*, 1858.

1. Court may order inquiry in Lunacy; and to what inquiry may extend.

2. Application for inquiry may be made by relations by blood or marriage or by A. G.

3. Inquiry may be by Court itself, or by Judge in Chambers, notice being given to Lunatic.

4, 5. Court may require Lunatic to attend, or may depute visitor to him.

6. Lunatic women of rank to be examined according to special rules.

7. Judge may take evidence on oath or otherwise, and report to Court.

8, 9. Court may depute inquiry to Local Civil Court within whose jurisdiction Lunatic resides; (9) whose report if defective may be referred back.

10. Court may grant a new trial.

11. Court may order payment of costs.

12, 13. Proceedings for appointment of Committees to be as on inquisition; (13) and Committee to have such power as Court may deem fit.

14, 15. Master of Court to have powers supplementary to those of Committee; and (15) to report to Court.

16. Court or Master may admit next of kin.

17. Court may make orders on petition.

18, 19. Court may dispose of lunatic's estate by mortgage or sale for specified purposes; (19) conveyances to be executed by Committee.

20, 21, 22, 23. Court may direct lunatic's precontracts to be carried out; and (21) may order dissolution of partnership; and (22) order sale of business premises; or (23) lease to be disposed of.

24. Court of Wards may take charge of certain property of lunatic.

25, 26. Court may appoint person to make transfer, &c., of Government Securities, &c., of lunatic to Committee; and (26) the same if lunatic is in foreign country and found lunatic there.

27, 28. The Court may dispense with Committee, and order lunatic's property to be paid direct for his benefit; and (28) may do the same in case of temporary lunacy.

29. Court having reason to believe that unsoundness of mind has ceased, may supersede lunacy proceedings.

30. Court may make general rules.

31. Recorder in Straits' Settlements to have same powers as Master in Supreme Court.

32. Interpretation of words "Lunacy," &c.

An Act to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter.

Preamble.

Whereas the several Courts of Judicature established by Royal Charters within the British Territories in India are authorized and empowered by their respective Charters to appoint guardians and keepers of the persons and estates of Lunatics, and to inquire into, hear, and determine questions of alleged Lunacy by inspection of the person, or by such other ways and means by which the truth may best be discovered and known; and whereas, according to the practice of the said Courts, questions of alleged Lunacy are determined by inquisition taken before a jury, and it is expedient to lessen the cost and to alter the mode of enquiry into such questions, and also to empower the said Courts to make provision for the due management of the estates of Lunatics, it is enacted as follows:

Court may order enquiry as to person alleged to be insane.

I. It shall be lawful for any of the said Courts of Judicature on such application as is hereinafter mentioned, to make an order directing an enquiry whether any person subject to the jurisdiction of the Court, who is alleged to be Lunatic, is or is not of unsound mind and incapable of managing himself and his affairs.

Order for enquiry may also direct concerning property, &c., of alleged Lunatic.

The order may also contain directions for other enquiries concerning the nature of the property belonging to the alleged Lunatic, the persons who are his relatives or next of kin, the time during which he has been of unsound mind, or such other matters as to Court shall seem proper.

Application by whom to be made.

II. Application for such enquiry may be made by any persons related by blood or marriage to the alleged Lunatic, or by the Advocate General.

III. The order made by the Court upon such application shall direct the enquiry to be by the Court itself. It shall nevertheless be lawful for the Court, if it see sufficient cause for so doing, to direct the enquiry to be executed in Chambers before a single Judge of the Court. Reasonable notice of the time and place appointed for the enquiry shall be given to the alleged Lunatic. If it shall appear that the alleged Lunatic is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of the notice as it shall think proper. The Court may also, if it think fit, direct a copy of such notice to be served upon any person related by blood or marriage to the alleged Lunatic. If the enquiry be directed to be executed before a single Judge, it shall be lawful for the alleged Lunatic, at any time before the day fixed for the enquiry, to demand an enquiry before the full Court. In such case the enquiry shall be by the Court, and a further day shall be appointed for making such enquiry; and in such case the Court may direct such further notices (if any) to be given, as it may think requisite.

Ordinarily, enquiry to be by the Court.

Court may for sufficient cause direct enquiry by a single Judge.

Notice of enquiry to be given to Lunatic.

Service of Notice.

Lunatic may demand enquiry before full Court.

IV. The Court may, at any time after the application, require the alleged Lunatic to attend at such convenient time and place, within twenty miles of the place of residence of the said Lunatic, as it may appoint for the purpose of being personally examined by the Court or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged Lunatic.

Court may at any time after the application require attendance of Lunatic for the purpose of being personally examined.

V. The Court may likewise, at any time after the application for such enquiry, make an order authorizing any person or persons to be therein named, to have access to the alleged Lunatic for the purpose of a personal examination.

And may authorize persons to have access to the Lunatic for the purpose of examination.

VI. The attendance and examination of the alleged Lunatic under the provisions of the two last preceding Sections, shall, if the alleged Lunatic be a woman, who according to the custom and manners of the country ought not to be compelled to appear in

Rules respecting attendance and examination where the alleged Lunatic is a woman of rank.

public, be regulated by the rules in force for the examination of such persons in other cases.

Powers of Judge executing the enquiry.

VII. If the enquiry is made by a Judge of the Court, the Judge executing the enquiry shall, while so employed, have power (subject to the provisions of the last preceding Section) personally to examine the alleged Lunatic and take such evidence, on oath or otherwise, and call for such information as he may think fit or the said Court may direct in order to ascertain whether the alleged Lunatic is or is not of unsound mind, and shall have the like powers and authority as are or may be vested by law in a Judge or Master of the said Court for the investigation of matters referred to them by the Court. The Judge shall report to the Court the result of the enquiry.

Judge to report.

Court may in certain cases direct enquiry to be made before any principal Civil Court of original jurisdiction within whose local jurisdiction the alleged Lunatic may be.

VIII. If the alleged Lunatic be not within the local limits of the jurisdiction of the Court, and the enquiry cannot conveniently be made in either of the modes hereinbefore provided, the Court may direct the enquiry to be made before any principal Court of original jurisdiction in Civil cases within whose local jurisdiction the alleged Lunatic may be; and such last-mentioned Court shall accordingly proceed to make such enquiry in the same manner as if the alleged Lunatic were subject to its jurisdiction, and shall certify its finding upon the matters of enquiry to the Court directing the enquiry. The evidence taken upon the enquiry shall be recorded by the Court in the English language in the form of a narrative, and a copy thereof, certified by the Court, shall be transmitted, together with any remarks the Court may think fit to make thereon, to the Court by which the enquiry was directed.

If report of Judge or finding of Court appear defective or insufficient in form, it may be amended by the Court directing the enquiry.

IX. If the report of the Judge or the finding of a Court under the last preceding Section appear to the Court directing the enquiry to be defective or insufficient in point of form, it shall be lawful for such last-mentioned Court either to amend the same or to refer it back to the Judge or the Court which made the enquiry to be amended.

Court may direct new trial.

X. It shall be lawful for the Court, on the application of the person at whose instance the order directing an enquiry was made or on the application of the alleged Lunatic or of any of his relatives authorised by the Court to make the application, to direct a new trial of the matters of enquiry according to the usual course and practice of the Court in directing new trials in Civil cases. If such application be granted in a case tried by a single Judge, the order granting the same shall direct the enquiry to be made by the full Court. If the application be granted in a case tried under Section VIII. the Court directing the new trial may give such directions regarding the same as it shall see fit.

Costs of enquiry.

XI. The Court shall make such order as may appear just respecting the costs of any enquiry under this Act, and may include therein such remuneration to Physicians and Surgeons as the Court, having regard to the nature of the enquiry, shall deem reasonable.

Finding of Court or report by Judge to be proceeded on, in regard to appointment of Committees, as an inquisition.

XII. If no new trial be directed, the finding of the Court to which the application for enquiry was made, if the enquiry have been made by such Court, or the report of the Judge, or the finding of the Court to which the enquiry may have been referred under the provisions of Section VIII., as the case may be, shall be of the same force and effect, and be proceeded on in the same manner in regard to the appointment of Committees of the person and estate of the Lunatic, as the inquisition now according to practice taken upon the oath of a jury.

On appointment of Committee, the Court may give certain powers for management of Lunatic's Estate.

XIII. It shall be lawful for the Court, on the appointment of Committees of the person and estate of a Lunatic, to direct by the order of appointment, or by any subsequent order, that the person to whom the charge of the estate is committed, shall have such powers for the management thereof as to the Court shall seem necessary and proper, reference being had to the nature of the property, whether moveable or immoveable, of which the estate may consist. But such powers shall not extend to the sale or charge by way of mortgage of the estate or any part thereof, or to the letting of any immoveable property unless for a term not exceeding three years.

XIV. The Master of the Court shall be at liberty, without an order of reference, to receive any proposal and conduct any enquiry respecting the management of the estate of a Lunatic, if such proposal relate to any matter which the Committee of the estate has not been empowered by an order under the last preceding Section to dispose of. The Master may likewise, without reference, receive and enquire into any proposal relating to the sale or charge by way of mortgage of the estate or of any part thereof, or to the letting of any immoveable property for a term exceeding three years.

Master to receive proposals concerning management, sale, &c., of estate, without an order of reference.

XV. The Master shall report to the Court on the proposal; and the Court shall, subject to the provisions of this Act, make such order upon the report and respecting the costs, as shall, under the circumstances, seem just.

Court to make order upon the report of the Master.

XVI. The Court or the Master shall once in the matter of each Lunacy, and may afterwards from time to time, determine whether any one or more and (if any) how many and which of the relatives or next of kin shall attend before the Master, at the cost of the estate, in any proceeding connected with the management thereof; and, if any such relative or next of kin is an infant, may from time to time appoint a fit person to be his guardian for the purposes of the Lunacy.

Master to determine what persons to attend at any enquiry, at the cost of the estate.

Appointment of guardian of infant relative.

XVII. The Court may, on application made to it by petition concerning any matter whatsoever connected with the Lunacy, make such order, subject to the provisions of this Act, respecting the application and the costs thereof, and of the consequent proceedings, as shall, under the circumstances, seem just.

Court may make order on application concerning any matter connected with the Lunacy.

XVIII. The Court may, if it appears to be just, or for the Lunatic's benefit, or that any property moveable or immoveable, of the Lunatic, and whether in possession, reversion, remainder, contingency, or expectancy, be sold or charged by way of mortgage or otherwise disposed of, as may seem most expedient for the purpose of raising money to be applied for any of the following purposes:—

Lunatic's property may be sold for debts, maintenance, &c.

1. The payment of the Lunatic's debts, including any debt incurred for his maintenance or otherwise for his benefit.

2. The discharge of any incumbrance on his estate.

3. The payment of or provision for the expenses of his future maintenance and the maintenance of his family, including the expenses of his removal to Europe, when he shall be so removed, and all expenses incidental thereto.

4. The payment of the costs of any enquiry under this Act, and of any costs incurred by order or under the authority of the Court.

Committee to execute conveyances.

XIX. The Committee of the Lunatic's estates shall, in the name and on behalf of the Lunatic, execute all such conveyances and instruments of transfer relative to any sale, mortgage, or other disposition of his estate as the Court shall order. In like manner such Committee shall, under the order of the Court, exercise all powers whatsoever vested in a Lunatic, whether the same are vested in him for his own benefit or in the character of trustee or guardian.

To execute powers.

Court may order performance of contract.

XX. Where a person, having contracted to sell or otherwise dispose of his estate or any part thereof, afterwards becomes Lunatic, the Court may if the contract is such as the Court thinks ought to be performed, direct the Committee of the estate to execute such conveyances, and to do such other acts in fulfilment of the contract as it shall think proper.

Member of partnership becoming Lunatic.

XXI. If a member of a partnership firm be found Lunatic, the Court may, on the application of the other partners or of any person who appears to the Court to be entitled to require the same, dissolve the partnership; and thereupon, or upon a dissolution by decree of Court or otherwise by due course of law, the Committee of the estate may, in the name and on behalf of the Lunatic, join with the other partners in disposing of the partnership property, upon such terms, and shall do all such acts for carrying into effect the dissolution of the partnership, as the Court shall think proper.

Disposal of business premises.

XXII. Where a Lunatic has been engaged in business, the Court may, if it appear to be for the Lunatic's benefit that the business premises should be disposed of, order the Committee of the estate to sell and dispose

of the same; and the moneys arising from such sale shall be applied in such manner as the Court shall direct.

Committee may dispose of lease.

XXIII. Where a Lunatic is entitled to a lease or underlease, and it appears to be for the benefit of his estate that it should be disposed of, the Committee of the estate may, by order of the Court, surrender, assign, or otherwise dispose of the same to such person for such valuable or nominal consideration, and upon such terms as the Court shall think fit.

When and to what extent Court of Wards may assume charge of land belonging to a Lunatic.

XXIV. If a Lunatic is possessed of any landed property situated beyond the local limits of the jurisdiction of the Court, which, by the law in force in the Presidency wherein such land is situated, subjects the proprietor, if disqualified, to the superintendence of the Court of Wards, the said Court of Wards may assume the charge of such landed property and manage the same according to the rules for the time being in force for such management.

Proviso.

Provided that, in such case, no further proceedings in respect of the Lunacy shall be taken under any such law, nor shall it be competent to the Court of Wards or to any Collector to appoint a guardian of the person of the said Lunatic or a manager of the estate except of the landed property which so subjects the proprietor as aforesaid. Provided also that the surplus of the income of such landed property, after providing for the discharge of the Government Revenue and expenses of management, shall be disposed of from time to time in such manner as the Supreme Court shall direct and not otherwise. Provided further that nothing contained in this Section shall affect the powers given to the Supreme Court by Sections XVIII., XIX., and XX. of this Act, or (except so far as relates to the management of the said landed property which so subjects the proprietor as aforesaid) the powers given by any other Section of this Act.

Surplus income of the land, after payment of Government Revenue, &c., to be disposed of as the Supreme Court shall direct.

Provisions of this Section not to affect certain powers given to the Supreme Court by the Act.

Stock transferable in India, belonging to Lunatic, may be ordered to be transferred.

XXV. Where any Stock or Government Securities or any Share in a Company (transferable within the said territories or the dividends of which are payable there) is standing in the name of, or is

vested in a Lunatic, beneficially entitled thereto, or in a Committee of the estate of a trustee for him, and the Committee dies intestate, or himself becomes Lunatic, or is out of the jurisdiction of the Court, or it is uncertain whether the Committee be living or dead, or he neglects or refuses to transfer the Stock, Securities, or Shares, or to receive and pay the dividends to a new Committee or as he directs, within fourteen days after being required by him to do so, then the Court may order some fit person to make such transfer, or to transfer the same, and to receive and pay over the dividends in such manner as the Court may direct, and such transfer or payment shall be valid and effectual for all purposes.

Stock of Lunatic residing out of India and not within the United Kingdom may be ordered to be transferred.

XXVI. Where any such Stock or Government Securities or Share in a Company is standing in the name of or vested in any person residing out of the said Territories, and not in any part of the United Kingdom, the Court, upon being satisfied that such person has been declared of unsound mind, and that his personal estate has been vested in a curator or manager, according to the laws of the place where he is residing, may order some fit person to make such transfer of the Stock, Securities, or Shares, or of any part thereof, to such curator or manager or otherwise, and also to receive and pay over the dividends and proceeds, as the Court may think fit; and any act done in pursuance of such order shall be valid and effectual for all purposes.

Court may in certain cases apply property for Lunatic's maintenance without appointing Committee.

XXVII. If it appears to the Court, having regard to the situation and condition in life of the Lunatic and his family and the other circumstances of the case, to be expedient that his property should be made available for his or their maintenance in a direct and inexpensive manner, it may, instead of appointing a Committee of the estate, order that the property, if money, or, if of any other description, the produce thereof, when realized, be paid to such person as the Court may think fit, to be applied for the purpose aforesaid; and all payments so made shall be a good discharge to the person making the same.

Like power in case of temporary Lunacy.

XXVIII. If it appears to the Court that the unsoundness of mind of a Lunatic is in its nature temporary, and that it is expedient to make temporary

provision for his maintenance or for the maintenance of his family, the Court may, in like manner as under the last preceding Section, direct his property or a sufficient part of it to be applied for the purpose aforesaid.

Proceedings in Lunacy to cease or to be set aside if Court after inquiry find that the unsoundness of mind has ceased.

XXIX. When any person has been found of unsound mind, and it shall be shown to the Court, either on the application of such person or of any other person acting on his behalf, or on the information of any other person, that there is reason to believe that such unsoundness of mind has ceased, the Court may make an order for inquiry whether such person is or is not still of unsound mind and incapable of managing himself and his affairs. The enquiry shall be conducted in the same manner and subject to the same rules as are hereinbefore prescribed for an enquiry into the unsoundness of mind of an alleged Lunatic; and if it be found that the unsoundness of mind has ceased, the Court shall order all proceedings in the matter of the Lunacy to cease or to be set aside on such terms and conditions as under the circumstances of the case shall appear proper.

Power of Court to make general orders.

XXX. The Court may, from time to time, make such orders not inconsistent with the provisions of this Act, as shall seem meet for carrying into effect the purposes of this Act, and for regulating the mode of proceeding before the Court, or before a Judge of the Court, or the Master, in matters of Lunacy.

Powers of Master to be exercised by a Judge or Recorder.

XXXI. Every power given by this Act to the Master of any of the said Courts may also be exercised by a Judge of any of the said Courts, and shall in the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca be exercised by the Recorder of the said Court or of any division thereof.

Interpretation. "Lunatic."

XXXII. Unless the contrary appears from the context, the word "Lunatic," as used in this Act, shall mean any person found by due course of law to be of unsound mind and incapable of managing his affairs. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular. Words importing the masculine gender shall include females.

Number.

Gender.

COUNTRY COURTS PROCEDURE.—LUNACY.

ACT No. XXXV. OF 1858.

[*Received the assent of the G. G. on the 14th Sept.*, 1858.

1. Repeals, as regarding Lunatics, Bengal Regulation X., 1793, s. 5; Bengal Regulation, LII., 1803, s. 9; Bengal Regulation I., 1800, and Bengal Regulation VI., 1822, s. 2; Madras Regulation V., 1804, ss. 6, 7, and ss. 20, 22 with Madras Regulation X., 1831, s. 3.

2. Empowers Civil Court of district to institute an enquiry in Lunacy.

3. Application for enquiry may be made by relative of Lunatic, Curator, or Government Pleader, &c.

4. Notice of enquiry to be given to Lunatic.

5. Court may require Lunatic to attend, and may order access to be given to visitor.

6. Lunatic woman of rank to be examined according to special custom.

7. Court may appoint assessors to sit with it on enquiry; and may order payment of costs.

8. Court may issue a commission for district enquiry.

9. On an adjudication of Lunacy, the Court of Wards may take charge of property of Lunatic.

10. Whenever a Manager is appointed for estate, a Guardian shall be appointed for person of Lunatic. Manager may be guardian; but legal heir never.

11. Collector to be Manager, if Court of Wards not competent.

12. Court may order remuneration for Manager or Guardian.

13, 14. Manager to pay allowance to Guardian; and (14) to have all the powers of proprietor for collection, &c., but not to sell or mortgage or lease for more than 5 years the estate.

15. Manager to make inventory of estate, and to account, and may be summoned for enquiry into his accounts.

16, 17. Manager to pay surplus of estate into Treasury; and (17) may be sued for an account.

18, 19. Civil Court may remove Manager or Guardian; and (19) may impose fine on Manager for neglect to account, &c.

20. Civil Court instead of appointing Manager may order income to be paid to an appointed person.

21. Civil Court may institute enquiry to ascertain if Lunacy has ceased; and may stop proceedings in Lunacy.

22. All orders in Lunacy to be subject to appeals.

23. Interprets words "Lunatic," &c.

An Act to make better provision for the care of the Estate of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature.

Preamble.

Whereas it is expedient to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Courts of

Judicature; and to prescribe general rules by which the state of mind of persons not subject to such jurisdiction, who are alleged to be Lunatic, may be enquired into and ascertained, it is enacted as follows:

Regulations repealed.

I. So much of Section V., Regulation X., 1793, of Section IX., Regulation LII., 1803, of Regulation I., 1800, and of Section XXIX., Regulation VIII., 1805 (extended to Benares by Section II., Regulation VI., 1822), of the Bengal Code; and so much of Sections VI. and VII., Regulation V., 1804, and of Sections XX. and XXII. of the said Regulation (as modified by Section III., Regulation X., 1831), of the Madras Code, as relate to Lunatics or Idiots, are hereby repealed.

Civil Court on application may be institute enquiry when a person possessed of property is alleged to be a Lunatic.

II. Whenever any person not subject to the jurisdiction of the Supreme Courts, who is possessed of property, is alleged to be a Lunatic, the Civil Court, within whose jurisdiction such person is residing, may, upon such application as is hereinafter mentioned, institute an enquiry for the purpose of ascertaining whether such person is or is not of unsound mind and incapable of managing his affairs.

Application by whom to be made.

III. Application for such enquiry may be made by any relative of the alleged Lunatic or by any public Curator appointed under Act XIX. of 1841, or by the Government Pleader, or if the property of the alleged Lunatic consist in whole or in part of land, or any interest in land, by the Collector of the District in which it is situate. If the property or any part thereof be of such a description as by the law in force in any Presidency where such property is situate would subject the proprietor, if disqualified, to the superintendence of the Court of Wards, the application may be made by the Collector on behalf of the Court of Wards.

Notice of enquiry to be given to Lunatic.

IV. When the Civil Court is about to institute any such enquiry as aforesaid, it shall cause notice to be given to the alleged Lunatic of the time and place at which it is proposed to hold the enquiry. If it shall appear that the alleged Lunatic is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of

Service of notice.

the notice as it shall think proper. The Court may also direct a copy of such notice to be served upon any relative of the alleged Lunatic.

May require attendance of and may authorise persons to have access to Lunatic for the purpose of examination.

V. The Civil Court may require the alleged Lunatic to attend at such convenient time and place as it may appoint for the purpose of being personally examined by the Court or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged Lunatic. The Court may likewise make an order authorising any person or persons therein named to have access to the alleged Lunatic for the purpose of a personal examination.

Rules respecting attendance and examination where the alleged Lunatic is a woman of rank.

VI. The attendance and examination of the alleged Lunatic under the provisions of the last preceding Section shall, if the alleged Lunatic be a woman who, according to the manners and customs of the country, ought not to be compelled to appear in public, be regulated by the rules in force for the examination of such persons in other cases.

Appointment of Assessors.

Order of Court.

VII. The Civil Court, if it think fit, may appoint two or more persons to act as Assessors to the Court in the said enquiry. Upon the completion of the enquiry, the Court shall determine whether the alleged Lunatic is or is not of unsound mind, and may make such order as to the payment of the costs of the enquiry by the person upon whose application it was made or out of the estate of the alleged Lunatic, if he be adjudged to be of unsound mind, or otherwise, as it may think proper.

Issue of Commission to a subordinate Court.

Report of subordinate Court.

Order of Civil Court.

VIII. If the alleged Lunatic reside at a distance of more than fifty miles from the place where the Civil Court to which the application shall have been made is held, the said Court may issue a Commission to any subordinate Court, to make the enquiry, and thereupon the said subordinate Court shall conduct the enquiry in the manner hereinbefore provided. On the completion of the enquiry the subordinate Court, shall report its proceedings, with the opinions of the Assessors, if Assessors have been appointed, and its own opinion on the case; and there-

upon the Civil Court shall make such order in the case as it may think proper.

Management of Lunatic's estate, if consisting of property subject to Court of Wards.

IX. When a person has been adjudged to be of unsound mind, and incapable of managing his affairs, if the estate of such person or any part thereof, consist of property which by the law in force in any Presidency subjects the proprietor, if disqualified, to the superintendence of the Court of Wards, the Court of Wards shall be authorised to take charge of the same.

In all other cases.

In all other cases, except as otherwise hereinafter provided, the Civil Court shall appoint a Manager of the estate.

Who may be appointed Manager.

Any near relative of the Lunatic, or the Public Curator, or, if there be no Public Curator, any other suitable person, may be appointed Manager.

Appointment of Guardian by Civil Court.

X. Whenever a Manager of the estate of a Lunatic is appointed by the Civil Court, the Court shall appoint a fit person to be guardian of the person of the Lunatic. The Manager, unless he be the Public Curator, may be appointed Guardian. Provided always that the legal heir of the Lunatic shall not in any case be appointed Guardian of his person.

Court may direct Collector to take charge of Lunatic's estate, if consisting of land not subject to Court of Wards.

XI. If the estate consist in whole or in part of land or any interest in land not subject to the jurisdiction of the Court of Wards, the Civil Court, instead of appointing a manager, may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a Manager of the property and a Guardian of the person of the Lunatic.

Proceedings of Collector subject to control of superior Revenue Authorities.

All the proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities.

Remuneration of Managers and Guardians.

XII. If the person appointed to be Manager of the estate of a Lunatic, or the person appointed to be Guardian of a Lunatic's person, shall be unwilling to discharge the trust gratuitously, the Court or the Collector, as the case may be, may fix such allowance or allowances to be paid out of the estate of the Lunatic as, under the circumstances of the case, may be thought suitable.

Duties of Guardian.

XIII. The person appointed to be Guardian of a Lunatic's person shall have the care of his person and maintenance. When a distinct Guardian is appointed, the Manager shall pay to the Guardian such allowance as shall be fixed by the Court or the Collector, as the case may be, for the maintenance of the Lunatic and of his family.

Powers of Managers.

XIV. Every Manager of the estate of a Lunatic, appointed as aforesaid, may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a Lunatic; and may collect and pay all just claims, debts and liabilities due to or by the estate of the Lunatic. But no such Manager shall have power to sell or mortgage the estate or any part thereof, or to grant a lease of any immoveable property for any period exceeding Five years, without an order of the Civil Court previously obtained.

Managers to furnish inventory and annual accounts.

XV. Every person appointed by the Civil Court or by the Collector to be Manager of the estate of a Lunatic shall, within six months from the date of his appointment, deliver in Court or to the Collector, as the case may be, an inventory of the landed property belonging to the Lunatic and of all such sums of money, goods, and effects, as he shall receive on account of the estate, together with a statement of all debts due by or to the same. And every such Manager shall furnish to the Court or to the Collector annually within three months of the close of the year of the era current in the district, an account of the property in his charge, exhibiting the sums received and disbursed on account of the estates and the balance remaining in his hands. If any relative of the Lunatic, or any public Officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement, or of any annual account, the Court may summon the Manager and enquire summarily into the matter and make such order thereon as it shall think proper; or the Court, at its discretion, may refer any such petition to any subordinate Court or to the Collector if the Manager was appointed by the Collector.

Proceeding if accuracy of inventory or accounts be impugned.

Manager to pay proceeds of estates into the Public Treasury.

XVI. All sums received by a Manager on account of any estate in excess of what may be required for the current expenses of the Lunatic or of the

estate, shall be paid into the Public Treasury on account of the estate, and may be invested from time to time in the Public Securities.

Relative may sue for an account.

XVII. It shall be lawful for any relative of a Lunatic to sue for an account from any Manager appointed under this Act, or from any such person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management or of any sums of money or other property received by him on account of such estate.

Removal of Manager or Guardian by Civil Court.

XVIII. The Civil Court, for any sufficient cause, may remove any Manager appointed by the Court, not being a Public Curator, and may appoint such Curator or any other fit person in his room, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all moneys received or disbursed by him. The Court may also, for any sufficient cause, remove any Guardian appointed by the Court. In like manner the Collector, for any sufficient cause, may remove any Manager or Guardian appointed by the Collector; and the Court, on the application of the Collector, shall compel any Manager so removed to deliver his accounts and the property in his hands.

Removal by Collector.

Manager refusing to furnish accounts, may be fined by the Court, &c.

XIX. The Civil Court may impose a fine not exceeding five hundred Rupees on any Manager of the estate of a Lunatic who wilfully neglects or refuses to deliver his accounts or any property in his hands within the prescribed time or a time fixed by the Court, and may realize such fine by attachment and sale of his property under the rules in force, for the execution of decrees of Court, and may also commit the recusant to close custody until he shall deliver such accounts or property.

Court may in certain cases apply property for Lunatic's maintenance without appointing any Manager.

XX. If it appears to the Civil Court, having regard to the situation and condition in life of the Lunatic and his family, and the amount and description of his property, to be unnecessary to appoint a Manager of the estate as hereinbefore provided, the Court may, instead of appointing such Manager, order that the property, if money, or if of any other description, the produce thereof, when

realized, be paid to such person as the Court may think fit, to be applied for the maintenance of the Lunatic and his family.

Court may institute enquiry to ascertain whether a person has ceased to be of unsound mind.

XXI. When any person has been adjudged to be of unsound mind and incapable of managing his affairs, if such person, or any other person acting on his behalf, or having or claiming any interest in respect of his estate, shall represent by petition to the Civil Court, or if the Court shall be informed in any other manner, that the unsoundness of mind of such person has ceased, the Court may institute an enquiry for the purpose of ascertaining whether such person is or is not still of unsound mind and incapable of managing his affairs. The enquiry shall be conducted in the manner provided in Section IV. and the four following Sections of this Act; and if it be adjudged that such person has ceased to be of unsound mind and incapable of managing his affairs, the Court shall make an order for his estate to be delivered over to him, and such order shall be final.

And may order estate to be restored.

Orders to be open to appeal.

XXII. Except as otherwise herein provided, all orders made by a Civil Court, or by any subordinate Court under this Act, shall be open to appeal under the rules in force for appeals in miscellaneous cases.

Interpretation. "Lunatic." "Civil Court." Gender.

XXIII. The word "Lunatic," as used in this Act, unless the contrary appears from the context, shall mean every person found by due course of law to be of unsound mind and incapable of managing his affairs. The expression "Civil Court," shall mean the principal Court of original jurisdiction in the district. Words importing the masculine gender shall include females.

Recorders' Courts, under Act XXI., 1863, to exercise jurisdiction in cases under this Act. See Act XXI., 1863, s. 25.

LUNATIC ASYLUMS.

Act No. XXXVI. of 1858.

[*Received the assent of the G. G. on the 14th Sept.*, 1858.

1, 2, 3. Presidency Governments may establish Lunatic Asylums; which (2) shall be managed according to rules, and have visitors; (3) who shall visit and report periodically.

4. Darogahs to apprehend reputed Lunatics, and bring them before Magistrate, who may commit to Asylum, unless a friend will be responsible for him.

5, 6. Magistrate may enquire into treatment of Lunatics generally, and make order for their proper treatment; and (6) these powers in Presidency towns to be exercised by Commissioner of Police, &c.

7, 8. No person to be received into a Lunatic Asylum in Presidency Town, &c., without order in specified form, unless previously found or certified to be Lunatic, &c. Friends of Lunatic, to engage for expenses; or (8) out of Presidency Town without order of Civil Court, &c., in what way application for admission shall be made.

9, 10. Visitors of Asylum may order discharge of Lunatic; and (10) discharge may be ordered on application of relative and an undertaking for proper care of Lunatic.

11. Inspector of Gaols may order removal of Lunatic from one public Asylum to another.

12. Defective or incorrect medical certificate may be amended.

13. In case of escape from Asylum, Lunatic may be re-taken.

14. Government to pay the Asylum expenses in certain cases.

15, 16. Civil Court may order expenses to be paid out of Lunatic's estate, if he has any; (16) without prejudice to obligation of relative to maintain Lunatic.

17. Saves powers of Supreme Courts under Act XXXIV., 1858, and under Act IV., 1849.

18. Interprets the words "Lunatic," &c.

Schedule of Forms and Statement.

An Act relating to Lunatic Asylums.

Preamble.

Whereas it is expedient to provide for the reception and detention of Lunatics in Asylums, established for that purpose, it is enacted as follows:

Lunatic Asylums may be established by Government or may be licensed.

I. The Executive Government of any Presidency or place, with the sanction of the Governor General of India in Council, may establish Asylums for the reception and detention of Lunatics at such places within the limits of the said Government as may be deemed proper. Any such Executive Government may also, if it think fit, grant licenses to any private persons for the establishment of such Asylums within the said limits, and may withdraw such licenses.

Rules for the management of Asylums to be sanctioned by Government.

Appointment of visitors.

II. The management of every Lunatic Asylum and the care and custody of its inmates shall be regulated according to such rules as shall from time to time be sanctioned by the Executive Government. The Executive Government shall ap-

point for every Asylum not less than three visitors, one of whom at least shall be a Medical Officer. The Inspector of Gaols (where such office exists) shall be a visitor *ex-officio* of all the Asylums within the circle of his inspection.

Monthly inspection by visitors.

III. Two or more of the visitors, one of whom shall be a Medical Officer, shall, once at least in every month, together inspect every part of the Asylum or Asylums of which they are visitors, and see and examine, as far as circumstances will permit, every Lunatic therein, and the order and certificate for the admission of every Lunatic admitted since the last visitation of the visitors; and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the Asylum and the Lunatics therein.

Wandering and dangerous Lunatics to be sent to the Magistrate.

Certificate and order for reception in Asylum.

IV. It shall be the duty of every Darogah or District Police Officer to apprehend and send to the Magistrate all persons found wandering at large within his district who are deemed to be Lunatics, and all persons believed to be dangerous by reason of Lunacy. Whenever any such person as aforesaid is brought before a Magistrate, the Magistrate, with the assistance of a Medical Officer, shall examine such person, and if the Medical Officer shall sign a certificate in the Form A. in the Schedule to this Act, and the Magistrate shall be satisfied on personal examination or other proof that such person is a Lunatic and a proper person to be detained under care and treatment, he shall make an order for such Lunatic to be received into the Asylum established for the division in which the Magistrates jurisdiction is situate, or, if such Lunatic is not a native of the country and the circumstances of the case so require, into a Lunatic Asylum at the Presidency; and shall send the Lunatic in suitable custody to the Asylum mentioned in such order. Provided that, if any friend or relative of any Lunatic, who is believed to be dangerous, shall undertake in writing to the satisfaction of the Magistrate that such Lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or others, the Magistrate, instead of sending him to an Asylum, may make him over to the care of such friend

In certain cases a Lunatic may be committed to the care of his friends or relatives.

Or sent to a licensed Asylum.

or relative. Provided also that if any such friend or relative shall desire that the Lunatic may be sent to a licensed Asylum instead of the public Asylum of the Division, and shall engage in writing to the satisfaction of the Magistrate to pay the expenses which may be incurred for the lodging, maintenance, medicine, clothing, and care of the Lunatic in such Asylum, the Magistrate may send the Lunatic to the licensed Asylum mentioned in the engagement.

In case of neglect or cruel treatment of a Lunatic, Magistrate may order relative, or person bound to maintain him, to provide for the proper treatment of such Lunatic.

V. If it shall appear to the Magistrate, on the report of a Police Officer or the information of any other person, that any person within the limits of his jurisdiction deemed to be a Lunatic is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, the Magistrate may send for the supposed Lunatic, and summon such relative or other person as has or ought to have the charge of him; and if such relative or other person be legally bound to maintain the supposed Lunatic, the Magistrate may make an order for such Lunatic being properly cared for and treated, and, if such relative or other person shall wilfully neglect to comply with the said order, may commit him to gaol for a period not exceeding one month. If there be no person legally bound to maintain the supposed Lunatic, or if the Magistrate think fit so to do, he may proceed as prescribed in the last preceding Section, and upon being satisfied in manner aforesaid that the person deemed to be a Lunatic is a Lunatic and a proper person to be detained under care and treatment, may make an order for his reception into such Asylum as aforesaid. It shall be the duty of every Darogah or District Police Officer to report to the Magistrate every such case of neglect or cruel treatment as aforesaid which may come to his knowledge.

If no person bound to maintain him, Magistrate may make an order for his reception in Asylum.

Darogah to report neglect.

Commissioner of Police, &c., to act in the Presidency Towns and Straits' Settlements.

VI. All acts which the Magistrate is authorized or required to do by the two last preceding Sections, may be done in the Presidency Towns and the Stations of the Straits' Settlements by the Commissioner of Police; and all duties which a Darogah or

District Police Officer is authorized or required to perform, may be performed in any of the said Towns and Stations by an Officer of the Police Force not below the rank of Inspector.

Order and certificate for reception into an Asylum in Presidency Towns and Straits' Settlements.

VII. Except as otherwise hereinbefore provided, no person shall be received into a Lunatic Asylum in any Presidency Town, or in any Station of the Straits' Settlements without an order under the hand of some person in the Form B. in the Schedule to this Act, together with such statement of particulars as is contained in the said Form B.; nor unless such person has been found Lunatic by inquisition or under an enquiry directed by an order of one of the Courts of Judicature established by Royal Charter, without the medical certificate containing the particulars in Form A. in the Schedule to this Act, of two persons, each of whom shall be a Physician or Surgeon, and one of whom shall be a Presidency Surgeon or a Surgeon in the employment of the Government. When such order is presented, the visitors or manager of the Asylum, before admitting the Lunatic into the Asylum, may require the friends of the said Lunatic to engage to pay the expenses which may be incurred for the lodging, maintenance, clothing, medicine, and care of the Lunatic, unless it shall appear to the said visitors that they have not sufficient means of doing so.

In places other than Presidency Towns, &c., no person to be received into Asylum without order of Civil Court.

VIII. *Clause* 1.—In places other than those specified in the last preceding Section, no person shall be received into a Lunatic Asylum, except as otherwise hereinbefore provided, without an order of the Civil Court.

Application for order to be made by a guardian, if a guardian has been appointed.

Clause 2.—When any person has been adjudged to be a Lunatic, and a guardian for such Lunatic has been appointed by the Court of Wards or the Collector or by the Civil Court, if such guardian shall desire that the Lunatic be admitted into a Lunatic Asylum, he shall make application to the Civil Court, and the Judge, with the assistance of a Medical Officer, shall examine such Lunatic, and if the Medical Officer shall sign a certificate in the Form A. in the Schedule to this Act, and the Judge shall be satisfied that the Lunatic is a proper person to be detained under care and treatment in a Lunatic Asylum, he shall make an order for such person to be received into the Asylum

established for the Division in which his jurisdiction is situate, or, if he think fit, into any licensed Asylum mentioned in the application.

Application where no guardian has been appointed.

Clause 3.—If any relative or friend of any person for whom a guardian has not been appointed by the Court of Wards or the Collector or by the Civil Court, desires that such person may be admitted into a Lunatic Asylum, he may make application to the Civil Court, and the Judge, if he see sufficient reason for so doing, shall enquire into the fact of Lunacy in the same manner as if an application had been made to the Civil Court under the provisions of Section III. of Act XXXV. of 1858, entitled "An Act to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature," and if the Lunacy be established, the Judge may then proceed in the manner prescribed in the second Clause of this Section.

Order for payment of expenses.

Clause 4.—Whenever the Judge shall make an order for the reception of any person into a Lunatic Asylum, he shall, at the same time, make an order for the payment of the expenses to be incurred for the lodging, maintenance, clothing, medicine, and care of such person; and such expenses shall be recovered by the Judge on the application of the visitors or manager of such Asylum.

Proviso.

Provided, however, that, if it shall appear to the satisfaction of the Judge that the Lunatic has not sufficient property, and that no person legally bound to maintain the said Lunatic has sufficient means for the payment of such expenses, he shall certify the same in the order for the reception of the Lunatic into the Asylum, instead of making such order for the payment of expenses as aforesaid.

Order of discharge from Asylum.

IX. It shall be lawful for three of the visitors of any Asylum of whom one shall be a Medical Officer, by writing under their hands, to order the discharge of any person detained in such Asylum. When such order is given, if the person is detained under the order of any public Officer, notice of the order of discharge shall be immediately communicated to such Officer. [Extended by Act II., 1867, s. 2.]

Order of discharge on undertaking of relative for due treatment of the Lunatic.

X. When any relative or friend of a Lunatic detained in any Asylum under the provisions of Section IV., Section V., or Section VI., of this Act, is desirous that such Lunatic shall be delivered over to his care and custody, he shall make application to the Magistrate or Commissioner of Police under whose order the Lunatic is detained, and the Magistrate or Commissioner of Police, if he think fit, after communication with the visitors or with one of them being a Medical Officer, and upon the undertaking in writing of such relative or friend to the satisfaction of the said Magistrate or Commissioner that such Lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or others shall make an order for the discharge of such Lunatic, and such Lunatic shall thereupon be discharged.

Inspector of Gaols may make order of removal from one public Asylum to another.

XI. The Inspector of Gaols may direct the removal of any Lunatic from any public Asylum to any other public Asylum within the circle of his inspection, and such order shall be sufficient authority for the removal of such Lunatic, and also for his reception into the Asylum to which he is ordered to be removed.

Amendment of order or certificate.

XII. If, after the reception of any Lunatic into any Asylum, it appear that the order or the medical certificate or certificates upon which he was received is or are defective or incorrect, the same may at any time afterwards be amended by the person or persons signing the same with the sanction of two or more of the visitors of the said Asylum, one of whom shall be a Medical Officer.

Order and certificate to justify detention and re-capture after escape.

XIII. Every person received into a Lunatic Asylum under any such order as is required by this Act accompanied by the requisite medical certificate, may be detained therein until he be removed or discharged as authorized by this Act, and in case of escape may, by virtue of such order, be re-taken by the manager of such Asylum, or any Officer or servant belonging thereto, or any other person authorised in that behalf by the said manager, or any Police Officer, and conveyed to and received and detained in such Asylum.

XIV. When any Lunatic is sent to a licensed Asylum by

In what cases Government to pay for the maintenance of Lunatic.

order of a Magistrate or a Commissioner of Police under Section IV., Section V., or Section VI. of this Act, and when a Lunatic is admitted into such Asylum under Section VII., or an order for the reception of a Lunatic is made under Section VIII., and no engagement has been taken from the friends of the Lunatic or order made by the Judge for the payment of expenses under the said Section VII. or Section VIII. respectively, the expense of the lodging, maintenance, clothing, medicine, and care of such Lunatic shall be paid by the Government to the manager of such Asylum.

Civil Court, on application of Magistrate, may make order for the payment of the cost of maintenance out of the Lunatic's estate, or by person bound to maintain him.

XV. The Magistrate or Commissioner of Police by whom any Lunatic has been sent to a Lunatic Asylum, if it appear to such Magistrate or Commissioner that such Lunatic has an estate applicable to his maintenance and more than sufficient to maintain his family, or that any person is legally bound to maintain and has the means of maintaining such Lunatic, may apply to the chief Civil Court of original jurisdiction within the local jurisdiction of which the estate of the Lunatic may be situate or the person legally bound to maintain him may reside, and such Court shall enquire into the matter in a summary way, and on being satisfied that such Lunatic has an estate applicable to his maintenance, or that any person is legally bound to maintain and has the means of maintaining such Lunatic, shall make an order for the recovery of the charges of the lodging, maintenance, clothing, medicine, and care of such Lunatic out of such estate or from such person. Such order shall be enforced in the same manner and shall be of the same force and effect and subject to the same appeal as any judgment or order made by the said Court in a regular suit in respect of the property or person therein mentioned. Any personal property which may be in the possession of a Lunatic found wandering at large may be sold by the Magistrate and the proceeds thereof (or such part of the same as may be necessary) applied towards the payment of the charges of the lodging and maintenance of the Lunatic, and of any other expenses incurred on his behalf.

Enforcement, &c., of order.

Property in the possession of a Lunatic found wandering.

Saving of liability of relatives to maintain Lunatic.

XVI. The liability of any relative or person to maintain any Lunatic shall not be taken away or affected by any provision contained in this Act.

Saving of powers of Supreme Court, &c., and of Act IV. of 1849.

XVII. Nothing contained in this Act shall be taken to interfere with the power of any of the Courts of Judicature established by Royal Charter over any person found to be Lunatic by inquisition or under the provisions of Act XXXIV., 1858, entitled "An Act to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter," or with the rights of any Committee of the person or estate of such Lunatic, or to affect the provisions of Act IV. of 1849, entitled "An Act for the safe custody of Criminal Lunatics."

Interpretation. "Lunatic."

XVIII. The word "Lunatic," as used in this Act, shall mean and include every person of unsound mind, and every person being an idiot.

"Magistrate."

The word "Magistrate" shall include a person exercising the powers of a Magistrate.

SCHEDULE.

FORM A.

CERTIFICATE OF MEDICAL OFFICER.—(*See Sections IV. and VIII.*)

I, the undersigned (*here enter name and official designation*), hereby certify that I, on the day of at , personally examined (*here enter name and residence of Lunatic*), and that the said is a Lunatic (*or an idiot, or a person of unsound mind*), and a proper person to be taken charge of, and detained under care and treatment, and that I have formed this opinion on the following grounds, namely:—

1. Facts indicating insanity observed by myself (*here state the facts*).

2. Other facts (if any) indicating insanity communicated to me by others (*here state the information and from whom*).

(Signed) ———

FORM B.

ORDER FOR THE RECEPTION OF A PRIVATE PATIENT.—(*See Section VII.*)

I, the undersigned, hereby request you to receive A. B., a Lunatic [*or an idiot, or a person of unsound mind*], as a patient into your asylum. Subjoined is a statement respecting the said A. B.

(Signed) Name.

Occupation (if any).

Place of abode.

Degree of relationship (if any), or other circumstance of connection with the patient.

Dated this day of One thousand eight hundred and

To , Superintendent of the Asylum at [*describing the Asylum*].

STATEMENT.

[*If any of the particulars in this Statement be not known, the fact to be so stated.*]

Name of patient, with Christian name at length.

Sex and age.

Married, single, or widowed.

Condition of life, and previous occupation (if any).

The religious persuasion, as far as known.

Previous place of abode.

Whether first attack.

Age (if known) on first attack.

When and where previously under care and treatment.

Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others.

Whether found Lunatic by inquisition or enquiry under order of Court, and date of Commission or order for inquisition or enquiry.

Whether any member of patient's family has been or is affected with insanity. (Signed) Name.

[*Where the person signing the Statement is not the person who signs the order, the following particulars concerning the person signing the Statement are to be added, namely :*]

Occupation (if any).

Place of abode.

Degree of relationship (if any), or other circumstances of connection with the patient.

NABOB OF THE CARNATIC.

ACT No. XXXVII. OF 1858.

[*Received the assent of the G. G. on the 5th Oct.*, 1858.

Recites that the privileges and immunities granted by Act I., 1844, cease on death of Nabob.

1, 2. Re-enacts privileges in favor of certain specified surviving members of his family; and (2) in favor of certain specified relatives.

Schedules A., B. and C. of persons privileged.

An Act to continue certain privileges and immunities to the family and retainers of His late Highness the Nabob of the Carnatic.

Preamble.

Whereas the exemption from the jurisdiction of the Civil and Criminal Courts enjoyed by the said late Nabob, his family, and servants, by virtue of the provisions of Act I. of 1844, ceased at the death of the said late Nabob; and it is deemed expedient that some of the said persons should continue to be privileged, and that the privilege enjoyed by others should be continued as respects all acts done by them prior to the commencement of this Act, it is enacted as follows:

No action to be commenced or prosecuted, and no process to issue against any of the Members of the family of the late Nabob mentioned in Schedule A., unless with the consent of the Governor in Council.

I. No action shall be commenced or prosecuted, and no writ or process shall at any time be sued forth against the person, goods, or property of any of the members of the family of the late Nabob, whose names are entered in Schedule A. attached to this Act, unless such action shall be commenced, or such writ or process shall

be sued forth with the consent of the Governor in Council of Fort St. George first had and obtained, such consent, to be certified by the signature of one of the Secretaries to Government; and any action which shall at any time be commenced, and any writ or process which shall at any time be sued forth, against the person, goods, or property of any such person as aforesaid, without such consent as aforesaid, so certified, as aforesaid, shall be utterly null and void.

Nor against any of the members of his family or any of his retainers mentioned in Schedules B. and C., without a like consent.

II. No action shall be commenced or prosecuted, and no writ or process shall be sued forth against the person, goods, or property of any of the members of the family or of the retainers of the late Nabob, who were protected from the process of the Civil and Criminal Courts by Act I. of 1844, and whose names are entered in Schedules B. and C. annexed to this Act, on account of any contract which shall have been entered into, or cause of action which shall have accrued, at a time preceding the commencement of this Act, unless such action shall be commenced, or such writ or process shall be sued forth, with the consent of the Governor in Council of Fort St. George first had and obtained, such consent to be certified by the signature of one of the Secretaries to Government; and any action which shall at any time be commenced, and any writ or process which shall at any time be sued forth, in respect of any such contract or cause of action, against the person, goods, or property of any such person as aforesaid, without such consent as aforesaid, so certified as aforesaid, shall be utterly null and void.

Commencement of Act.

III. This Act shall commence and take effect from the expiration of Act XXIV. of 1858.

SCHEDULE A.

Prince Azeem Jah, Ameer Ool Oomrah Oomdut Ool Moolk, Ussud Ood Dowlah, Mohummud Ally Khan Bahadoor, Zoolfakhar Jung.

Nabob Khyroon Nissa Begum.

Auzum Oon Nissa Begum.

Shurf Oon Nissa Begum.

Fukhr Oon Nissa Begum.

Fazeelut Oon Nissa Begum.
Fatimah Begum.
Koolsoom Begum.
Ahmudy Begum.
Mooktar Oon Nissa Begum.
Nabob Khaderiah Begum.
Nabob Ghoosiah Begum.
Moomtauz Oon Nissa Begum.
Umutool Walee Valeyut Oon Nissa Begum.
Umtolah Hammeedut Oon Nissa Begum.
Raheem Oon Nissa Begum.
Ahmed Oon Nissa Begum.
Umutool Ali Ulyut Oon Nissa Begum.
Umutool Azeem Monazzaz Oon Nissa Begum.
Umutool Azeez Monazzaz Oon Nissa Begum.
Umutool Humeed Humeed Oon Nissa Begum.

SCHEDULE B.

Bauker Hoossain, styled Bauker Hoossain Khan Bahadoor.

Gholam Mohummud Hoossain, styled Rusheed Ood Dowlah Gholam Mohummud, Hoossain Khan Bahadoor, Iyalut Jung.

Gholam Mohummud, styled Mooneer Ood Dowlah, Gholam Mohummud Khan Bahadoor, Jassarut Jung.

Gholam Russool, styled Etebar Ood Dowlah, Gholam Russool Khan Bahadoor, Ukbur Yar Jung.

Ahmud Oollah, styled Moontuzim Ood Dowlah, Ahmud Oollah Khan Bahadoor, Nubbee Yar Jung.

Noor Oollah Meyan, styled Oomdut Ood Dowlah, Mohummud Noor Oollah Khan Bahadoor, Joorut Jung.

Gholam Mohi Ood Deen, styled Mowzaz Ood Dowlah, Mohi Ood Deen Yar Khan Bahadoor, Hummyut Jung.

Mohummud Buddee Oollah, styled Zaheer Ood Dowlah, Mohummud Buddee Oollah Khan Bahadoor, Fitrut Jung.

SCHEDULE C.

Mouluwee Abdool Wahaub, styled Madaar Ool Omrah, Moodubbir Ool Moolk, Mookhtar Ood Dowlah, Wazarut Khan Bahadoor, Urusthoo Jung.

Mohummud Nuky, styled Bukshee Ool Moolk, Bukshee Ood Dowlah, Meer Uskur Khan Bahahoor, Salar Jung.

Mouluwee Mohummud Oollah, styled Cauzee Ool Moolk, Moonsiff Ood Dowlah, Dandrus Khan Bahadoor, Moostuid Jung.

Gholam Ghouse, styled Mohtamid Ood Dowlah, Meer Samaun Khan Bahadoor, Moontuzim Jung.

Mahmood Ally, styled Dubbeer Ool Moolk, Moosheer Ood Dowlah, Rauzdar Khan Bahadoor, Moojuwwiz Jung.

Mouluwee Gholam Ally, styled Moonshee Ool Moolk, Dubbeer Ood Dowlah, Etimaud Khan Bahadoor, Oatarid Jung.

Hajee Khader Moortuza Hoossain, styled Salar Ool Moolk, Mohtashim Ood Dowlah, Meer Atush Khan Bahadoor, Mohtashim Jung.

DELHI TERRITORY, AND PUNJAB—TERRITORIAL.

ACT NO. XXXVIII. OF 1858.

[*Received the assent of the G. G. on the* 11*th Dec.*, 1858.

1. Repeals Bengal Regulation 5, 1832, except as to place mentioned in Schedule of Act.

2. Legalizes proceedings of Courts appointed by Punjab Commissioner.

3. Suits begun may be continued in Punjab Courts.

4. Proceedings begun in North-West Courts may be carried on to decree, but execution to be issued by Punjab Courts.

5. Appeals from North-West Courts to be made to Punjab Courts.

Schedule of exception.

An Act to repeal Regulation V., 1832, of the Bengal Code, and to make certain provisions rendered necessary by the transfer of the Delhi Territory to the administration of the Chief Commissioner of the Punjab.

Preamble.

Whereas the whole of the Delhi Territory, except such part thereof as is specified in the Schedule to this Act annexed, has been placed under the administration of the Chief Commissioner of the Punjab, and it is expedient that Regulation V., 1832, of the Bengal Code, should be repealed, it is enacted as follows:

Regulation repealed.

I. Regulation V., 1832, of the Bengal Code, is hereby repealed, except as to that part of the Delhi Territory which is mentioned in the Schedule to this Act annexed.

MADRAS.—ARREARS OF LAND REVENUE.

Act No. XXXIX. of 1858.

[*Received the assent of the G. G. on the 11th Dec.*, 1858.

Recites expediency of enlarging the power of Collector for realization of arrears.

1. Repeals Act 23, 1856.

2. Authorizes Collector to recover arrears by distress and sale of moveable and sale of immoveable property of defaulter wherever found, except bullocks, ploughs and implements of husbandry, &c., and artisans' tools.

3. On seizure, demand in writing to be made on defaulter, and inventory of distress to be given, with notice of sale, to be fixed on premises in case of absence of defaulter.

4. Distraining officer to send inventory to selling officer, in what case.

5. Distress to be released on tender of arrears and expenses.

6. Standing crops may be reaped or sold standing.

7. Cattle, &c., distrained not to be used, but to be fed.

8. Distraining officer to be responsible for loss or damage of distress.

9. Prohibits taking excessive distress.

10. Distress to be made between Sunrise and Sunset.

11. In case of fraudulent transfer of property to avoid distress, Zillah Court may order property to be delivered to distrainer.

12. Owners wrongfully distrained upon may recover compensation from defaulter. Distress not to be barred by previous sale or mortgage of crops, &c., in possession of defaulter.

13. Clandestinely taking away distress punishable with not exceeding six months' imprisonment.

14, 15. Authorizes distrainer to break open stables, &c.; and (15) to obtain assistance of Police to break open outer doors and inner apartments, &c., and Zenana after notice.

16. Persons breaking open Zenana contrary to Act subject to imprisonment.

17, 18, 19. Notice of sale to be fixed outside defaulter's house: sale not to be made till after 15 days; (18) sale to be in one lot or more: and overplus (if any) to be paid to defaulter; (19) sale to be for ready money.

20, 21. After sale of all the moveable property of defaulter, his immoveable property, (21) with sanction of Board of Revenue, may be sold for arrears and interest.

22. Extends Madras Regulation 26, 1802, Sections 11, 12, 13, 15, 16, and 17, to sales of immoveable property under this Act.

23. After sale of immoveable, moveable property may be distrained and sold.

24. If arrears are not realized by sale of property, defaulter may be imprisoned not exceeding 2 years, if a wilful defaulter or fraudulent.

25. Remedy under Regulation 27, 1802, Sections 11 and 12, extended to persons aggrieved by Collector's proceedings.

26. Arrears to bear interest at 12 per cent. after 30 days.

27. Regulation 5, 1822, not to apply to sales under this Act.

28. Provisions of this Act extended to all demands of Government recoverable as arrears of Revenue.

29. Regulation 28, 1822, to be imperative as respects arrears recoverable under this Act.

30. Fines under this Act recoverable as arrears of Revenue.

31. Reserves the right of parties aggrieved to apply to Civil Courts for redress.

An Act for the better recovery of Arrears of Revenue under Ryotwar Settlements in the Madras Presidency.

Preamble.

Whereas difficulties occur in applying the rules of Regulation XXVIII., 1802, of the Madras Code, to lands under Ryotwar Settlements, or otherwise subject to a Khas collection on the part of Government, and it is expedient to modify those rules; and whereas it is necessary to provide that the Collector shall, at his discretion, proceed to realize arrears of such Revenue by the sale of either the moveable or immoveable property of defaulters, it is hereby enacted as follows:

Act repealed.

I. Act XXIII. of 1856 (*for the better recovery of arrears of Revenue under Ryotwar Settlements in the Madras Presidency*), is hereby repealed, except so far as relates to indemnity for anything done before the passing of that Act.

Repealed by Act IV., 1863, of the Madras Council.

BENGAL.—MINORS.

Act No. XL. of 1858.

[*Received the assent of the G. G. on the* 11*th Dec.*, 1858.

Recites expediency of making better provision for the care of the persons and property of Minors.

1. Repeals Regulation 1, 1800; Regulation 8, 1805, Section 29, cls. 1, 2, 3, 4, 5, and 6; Regulation 17, Section 5; and the restrictions on Civil Courts

in cases of inheritance by minors in, Regulation 5, 1799, Sections 2 and 3, and Regulation 3, 1803, Sections 16, cls. 2 and 3.

2. Gives Civil Court care of persons and property of minors, except such as are already under protection of Court of Wards.

3. Trustees and relations of minors to obtain certificates of administration from Civil Court.

4, 5. Relatives of minor may recommend a fit person to be appointed administrator; (5) recommendation to be to the Court in which the minor resides.

6. Court to give notice of hearing the application.

7. Administration to be given to person entitled by will or deed, or, if none such, to relative, who may be appointed guardian.

8. Court may call on Collector or Magistrate for a report on character of candidate.

9, 10. If no person entitled by deed or will to be appointed, and no relation will take the charge, (10) Court may grant a Certificate to the Public Curator, or, if none, to any fit person.

11. Guardian to be appointed as well as Curator; who may be paid for service; Public Curator not to be Guardian.

12. Court may appoint the Collector to take charge of landed estate, and Collector may appoint Manager and Guardian.

13. Costs of Civil Court to be paid out of Minor's estate.

14. Where jurisdiction of Court of Wards ceases by reason of disqualification of one of several disqualified persons, the Collector is to retain charge of shares of those who remain under disqualification.

15. Collector to be under control of the superior Revenue authorities.

16. Curator and Administrator to deliver inventory and accounts, correctness of which may be inquired into.

17. Surplus of collections to be paid into Treasury.

18. Person holding Certificate under this Act to have same powers for purpose of management as if he were a proprietor, but may not sell nor mortgage nor lease for more than 5 years.

19, 20. Relation of minor may sue manager for an account; (20) which suit may be continued by minor when his minority has ceased.

21. Civil Court may revoke certificate, &c.

22. Persons not delivering accounts may be fined.

23. Court may permit Curator to resign his trust.

24. Public Curator and any Administrator to receive not exceeding 5 per cent. commission.

25. Guardians bound to provide education for minor, &c., subject to Civil Court or Collector.

26. Minority to continue to age of 18.

27. Married women minors, and minors whose fathers are living, excepted from this Act.

28. Orders of Civil Court appealable.

29. Interpretation clause.

An Act for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal.

Preamble.

Whereas it is expedient to make better provision for the care of the persons and property of Minors not brought under the superintendence of the Court of Wards, it is enacted as follows:

Regulations repealed.

I. Regulation I., 1800, Clause 8, and the six following Clauses of Section XXIX., Regulation VIII., 1803, Section V., Regulation XVII., 1805, and so much of Sections II. and III., Regulation V., 1799, and of Clauses 2 and 3, Section XVI., Regulation III., 1803, as restrict the interference of the Civil Courts in cases of inheritance by Minors, are repealed.

Persons and property of Minors not under the protection of the Court of Wards shall be subject to jurisdiction of Civil Court.

II. Except in the case of proprietors of estates paying Revenue to Government, who have been or shall be taken under the protection of the Court of Wards, the care of the persons of all Minors (not being European British subjects) and the charge of their property, shall be subject to the jurisdiction of the Civil Court.

When persons claiming to have charge of property in trust for a Minor may apply for certificate of administration.

III. Every person who shall claim a right to have charge of property in trust for a Minor under a Will or Deed, or by reason of nearness of kin, or otherwise, may apply to the Civil Court for a Certificate of administration; and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge until he shall have obtained such Certificate. Provided that, when the property is of small value, or for any other sufficient reason, any Court having jurisdiction may allow any relative of a Minor to institute or defend a suit on his behalf, although a Certificate of administration has not been granted to such relative.

No person competent to institute or defend a suit without such Certificate.

Proviso.

Who may apply to Court to appoint a person to take charge of the property, &c., of a Minor.

IV. Any relative or friend of a Minor in respect of whose property such Certificate has not been granted, or, if the property consists in whole or in part of land or any interest in land, the Collector of the District may apply to the Civil Court to appoint a fit person to take charge of the property and person of such Minor.

V. If the property be situate in more than one District, any such application as aforesaid shall be made to the Civil Court of the District in which the Minor has his residence.

To what Court application to be made, if property be situate in more than one District.

VI. When an application shall have been made to the Civil Court, either by a person claiming a right to have charge of the property of a Minor, or by any relative or friend of a Minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same. On the day so fixed, or as soon after as may be convenient, the Court shall enquire summarily into the circumstances and pass orders in the case. Provided always that it shall be competent to the Civil Court to direct any Court subordinate to it, to make such enquiry and report the result.

Enquiry to be made by Court on application.

Proviso.

VII. If it shall appear that any person claiming a right to have charge of the property of a Minor is entitled to such right by virtue of a Will or Deed, and is willing to undertake the trust, the Court shall grant a Certificate of administration to such person. If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the Minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a Certificate to such relative.

Certificate of administration to whom to be granted.

The Court may also, if it think fit (unless a Guardian has been appointed by the father), appoint such person as aforesaid, or such relative or any other relative or friend of the Minor, to be Guardian of the person of the Minor.

Court may appoint such person Guardian.

VIII. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the Minor who may be desirous or willing to be entrusted with the charge of his property or person.

Court may call upon Collector or Magistrate for a report on the character and qualification of relative or friend.

IX. If no title to a Certificate be established to the satisfaction of the Court by a person claiming under a Will or Deed, and if there be no near relative willing and fit to be entrusted with the charge of the property of the Minor, and

Proceeding if no title to a Certificate be established, and if there be no relative fit to be entrusted with the property, &c., of a Minor.

the Court shall think it to be necessary for the interest of the Minor that provision should be made by the Court for the charge of his property and person, the Court may proceed to make such provision in the manner hereinafter provided.

If estate consist only of moveable property, &c., Court may grant Certificate to Public Curator or other person.

X. If the estate of the Minor consists of moveable property or of houses, gardens, or the like, the Court may grant a Certificate to the Public Curator, appointed under Section XIX., Act XIX., of 1841, or, if there be no Public Curator, to any fit person whom the Court may appoint for the purpose.

Appointment of Guardian.

XI. Whenever the Court shall grant a Certificate of administration to the estate of a Minor to the Public Curator or other person as aforesaid, it shall at the same time appoint a Guardian to take charge of the person and maintenance of the Minor. The person to whom a Certificate of administration has been granted, unless he be the Public Curator, may be appointed Guardian. If the person appointed to be Guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance, to be paid out of the estate of the Minor, as under the circumstances of the case it may think suitable. The Court may also fix such allowance as it may think proper for the maintenance of the Minor; and such allowance and the allowance of the Guardian (if any) shall be paid to the Guardian by the Public Curator or other person as aforesaid.

When the estate consists of land, Court may direct Collector to take charge of estate.

XII. If the estate of the Minor consist, in whole or in part, of land or any interest in land, the Court may direct the Collector to take charge of estate, and thereupon the Collector shall appoint a Manager of the property of the Minor and a Guardian of his person, in the same manner and subject to the same rules in respect of such appointments and of the duties to be performed by the Manager and the Guardian respectively, so far as the same may be applicable, as if the property and person of the Minor were subject to the jurisdiction of the Court of Wards.

Payment of costs.

XIII. In all enquiries held by the Civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose

application the enquiry was made, or out of the estate of the Minor or otherwise as it may think proper.

When an estate, some of the co-proprietors of which are still Minors, ceases to be subject to the Court of Wards, Civil Court may direct Collector to retain charge of shares and persons of Minors.

XIV. Whenever one or more of the proprietors of an estate, which has come under the jurisdiction of the Court of Wards on account of the disqualification of all the proprietors, ceases to be disqualified, and the estate, in consequence, ceases to be subject to the jurisdiction of the Court of Wards, notwithstanding the continued disqualification of one or more of the co-proprietors, the Collector of the District in which the estate is situate, may represent the fact to the Civil Court; and the Court, unless it see sufficient reason to the contrary, shall direct the Collector to retain charge of the persons, and of the shares of the property of the still disqualified proprietors, during the continuance of their disqualification, or until such time as it shall be otherwise ordered by the Court. The Collector shall in such case appoint a Guardian for the care of the persons, and a Manager for the charge of the property of the disqualified proprietors, in the manner prescribed in Section XII. If the property be situate in more than one District, the representation shall be made by the Collector who had the general management of the property under the Court of Wards, to the Civil Court of his own District, and the orders of the Court of that District shall have effect also in other Districts in which portions of the property may be situate.

Provision for case of estates situated in more than one District.

XV. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities.

Proceedings of Collector subject to control of superior Revenue Authorities.

XVI. The Public Curator and every other Administrator to whom a Certificate shall have been granted under Section X., shall, within six months from the date of the Certificate, deliver in Court an inventory of any immoveable property belonging to the Minor, and of all such sums of money, goods, effects, and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same. And the Public Curator and every such other Administrator shall furnish annually,

Public Curator, &c., to furnish inventory and annual accounts.

within three months from the close of the year of the era current in the District, an account of the property in his charge, exhibiting the amounts received and disbursed on account of the estate, and the balance in hand. If any relative or friend of a Minor, or any Public Officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the Curator or Administrator and enquire summarily into the matter, and make such order thereon as it shall think proper, or the Court at its discretion may refer such petition to any subordinate Court.

Proceeding if accuracy of inventory or account be impugned.

XVII. All sums received by the Public Curator or such other Administrator on account of any estate, in excess of what may be required for the current expenses of the Minor or of the estate, shall be paid into the Public Treasury on account of the estate, and may be invested from time to time in the Public Securities.

Public Curator, &c., to pay proceeds of estates into Treasury. Surplus funds to be invested in Public Securities.

XVIII. Every person to whom a Certificate shall have been granted under the provision of this Act, may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a Minor, and may collect and pay all just claims, debts, and liabilities due to or by the estate of the Minor. But no such person shall have power to sell or mortgage any immoveable property, or to grant a lease thereof for any period exceeding five years, without an order of the Civil Court previously obtained.

Powers of persons to whom Certificate has been granted in the management of a Minor's estate.

XIX. It shall be lawful for any relative or friend of a Minor, at any time during the continuance of the minority, to sue for an account from any Manager appointed under this Act, or from any person to whom a Certificate shall have been granted under the provisions of this Act, or from any such Manager or person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Relative or friend may sue for an account.

XX. If the disqualification of a person, for whose benefit a

Continuance of suit instituted under this Act after disqualification shall have ceased.

suit shall have been instituted under this Act, cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Revocation of Certificate.

XXI. The Civil Court for any sufficient cause may recal any Certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a Certificate to the Public Curator or any other person as the case may be; and may compel the person whose Certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all moneys received and disbursed by him. The Court may also for sufficient cause remove any Guardian appointed by the Court.

Removal of Guardian.

Penalty for neglect or refusal to deliver accounts or property.

XXII. The Civil Court may impose a fine not exceeding five hundred Rupees on any person who may wilfully neglect or refuse to deliver his accounts, or any property in his hands, within the prescribed time, or a time fixed by the Court; and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court; and may also commit the recusant to close custody until he shall consent to deliver such accounts or property.

Civil Court may permit resignation of trust, &c.

XXIII. The Civil Court may permit any person to whom a Certificate shall have been granted under this Act not being the Public Curator, and any Guardian appointed by the Court, to resign his trust; and may give him a discharge therefrom on his accounting to his successor, duly appointed, for all moneys received and disbursed by him, and making over the property in his hands.

Remuneration of Public Curator, &c.

XXIV. The Public Curator and every other Administrator to whom a Certificate shall have been granted under Section X., shall be entitled to receive such commission, not exceeding five per centum on the sums received and disbursed by him, or such other allowance, to be paid out of the Minor's estate, as the Civil Court shall think fit.

Guardians of Minors to provide for their education.

XXV. Every Guardian appointed by the Civil Court, or by the Collector under this Act, who shall have charge of any male Minor, shall be bound to

provide for his education in a suitable manner. The general superintendence and control of the education of all such Minors shall be vested in the Civil Court or in the Collector, as the case may be; and the provisions of Act XXVI. of 1854 (*for making better provision for the education of Male Minors subject to the superintendence of the Court of Wards*) shall, so far as is consistent with the provisions herein contained, be applicable to the Civil Court, or to the Collector, as the case may be, in respect to such Minors, and to every such Guardian.

Act XXVI. of 1854 declared applicable.

Persons under the age of 18 years to be held Minors for the purposes of this Act.

XXVI. For the purposes of this Act, every person shall be held to be a Minor, who has not attained the age of eighteen years.

Act not to authorize the appointment of Guardians of certain married women and other persons.

XXVII. Nothing in this Act shall authorize the appointment of a Guardian of the person of a female whose husband is not a Minor, or the appointment of a Guardian of the person of any Minor whose father is living and is not a Minor; and nothing in this Act shall authorize the appointment of any person other than a female as the Guardian of the person of a female. If a Guardian of the person of a Minor be appointed during the minority of the father or husband of the Minor, the guardianship shall cease as soon as the father or husband (as the case may be) shall attain the age of majority.

Guardianship during the minority of the father or husband of a Minor when to cease.

Appeals.

XXVIII. All orders passed by the Civil Court or by any Subordinate Court under this Act shall be open to appeal under the rules in force for appeals, in miscellaneous cases, from the orders of such Court and the Subordinate Courts.

Interpretation. "Civil Court."

XXIX. The expression "Civil Court" as used in this Act shall be held to mean the principal Court of original jurisdiction in the district, and shall not include the Supreme Court; and nothing contained in this Act shall be held to affect the powers of the Supreme Court over the person or property of any Minor subject to its jurisdiction. Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural

Number.

number shall include the singular number, and words importing the masculine gender shall include females.

Gender.

BENGAL STAMP DUTIES.

Act No. XLI. of 1858.

[*Received the assent of the G. G. on the 30th Dec.*, 1858.

1. Repeals General Rule in Schedule A. of Regulation 10, 1829.
2. One Stamp for several sheets or pieces of paper sufficient, if of adequate value.
3. Stamp on Deed, &c., may be rectified within certain time after discovery of error.
4. Act not to apply to error more than six years before the Act.

An Act to amend Regulation X., 1829, of the Bengal Code (for the collection of Stamp Duties).

Preamble.

Whereas, by the General Rule laid down at the end of Schedule A. annexed to Regulation X., 1829, of the Bengal Code, it is declared that, if any Deed, Instrument, or document specified in that Schedule shall not be contained in one sheet or piece of paper or other material, it shall suffice that one sheet shall bear the stamp, provided that the seals or signatures of the parties and witnesses be thereupon: and whereas the said Rule has been productive of inconvenience, and there is reason to believe that many Deeds, Instruments, and Documents have been executed since the said Regulation came into effect in respect of which the said Rule has not been complied with: and it is expedient to repeal the said Rule, and to provide for the reception in evidence of such Deeds as aforesaid, it is declared and enacted as follows:

Part of Schedule A., Regulation X., 1829, repealed.

I. The above Rule is hereby repealed.

Stamp on Deeds contained in more than one sheet of paper.

II. Every Deed, Instrument, or Document specified in the said Schedule, which is or shall be contained in more than one sheet or piece of paper or other material, shall be deemed to be sufficiently stamped if any one or more of such sheets or pieces of paper or other material shall bear the requisite stamp, or stamps equal in value to the requisite stamp, whether the signatures or seals of

the parties and witnesses shall or shall not be upon such sheet or sheets. The above provision shall apply to Deeds, Instruments, and Documents executed before this Act, as well as to Deeds, Instruments, and Documents which shall hereafter be executed.

Proviso as regards Deeds, &c., to be hereafter executed.

Provided as regards Deeds, Instruments, and Documents which shall be executed after the First day of January, 1859, that every sheet or piece of paper or other material which shall contain any part of such Deed, Instrument, or Document shall be stamped with a Government Stamp of the value of at least one anna.

Review of judgment in certain cases in which Deeds, &c., have been rejected as not stamped.

III. In any case in which a Deed, Instrument, or Document has been rejected by any Court upon the ground that the same was not stamped within the meaning of the above-mentioned Rule, any party injured by the decision may obtain a review of judgment if the application be made within six months from the passing of this Act, and if the Court to which the application is made be satisfied that the Deed, Instrument, or Document, if admitted, would have led to a different decision upon the merits of the case.

Operation of Section III. limited.

IV. Nothing in the last preceding Section shall extend to any case in which a final decision was given more than six years before the passing of this Act.

The Stamp Acts were consolidated and amended by Act XXXVI., 1860, which was repealed by Act X., 1862, the last General Stamp Act.

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" " 32, repealed by Act 13, 1857
" " 53, repealed, ditto
1799, " 6, ss. 2, 3 repealed partially as respects Minors by Act 40, 1858
1800, " 1, repealed by Act 40, 1858
1801, " 7, repealed by Act 22, 1855
1802, " 2, repealed by Act 21, 1856
1803, " 2, ss. 17, 18 extended by Act 26, 1852

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1834, Regulation 3, s. 18 repealed by Act 12, 1854, and s. 16, cls. 2, 3 repealed partially as respects Minors by Act 40, 1858

" " 6, s. 5 repealed by Act 3, 1856

" " 17, s. 2 restricted by Act 20, 1856

" " 25, s. 11 repealed by Act 25, 1854

" " 34, ss. 3, 5, 6, 7, 8, 9, 10 repealed by Act 28, 1855

" " 52, s. 9 repealed as respects Lunatics by Act 35, 1858

1805, " 8, s. 18 repealed by Act 25, 1854; and s. 28, c. 1 partially by Act 28, 1855; and s. 29 repealed as respects Lunatics by Act 35, 1858; and as respects Minors by Act 40, 1858

" " 14, s. 9, cls. 3, 4, 5, 6 repealed, and s. 7 partially by Act 28, 1855

" " 17, s. 5 repealed as respects Minors by Act 40, 1858

" " 19, repealed by Act 27, 1854

1805, " 6, repealed by Act 32, 1855

" " 15, s. 2 repealed by Act 22, 1854; and s. 6 by Act 8, 1855, s. 53

" " 16, repealed by Act 25, 1854

" " 17, s. 2 repealed partially by Act 28, 1855

1813, " 10 repealed by Act 21, 1856

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" " 23, ss. 19, 21, 22, 24, 25, cls. 1, 2, 3, 5, ss. 27, 29, 36, 37, 75 partially repealed by Act 36, 1852; and ss. 69, 73 repealed partially by Act 19, 1853; and s. 21, cls. 2, 3, and s. 32 repealed by Act 12, 1856

" " 24, s. 11 partially repealed by Act 19, 1853

" " 26, s. 5, c. 4, and ss. 6, 7, 8, 10, 11, 13, 14, 15 repealed by Act 18, 1852

" " 27, s. 9, c. 3, and s. 20, c. 6 repealed by Act 18, 1852, and s. 16 repealed by Act 20, 1855

1816, " 7, repealed by Act 17, 1853

" " 13, s. 41 to end, repealed by Act 21, 1856; and ss. 1 to 40 by Act 13, 1857

" " 22, repealed by Act 20, 1856

1817, " 7, repealed by Act 20, 1856

" " 20, s. 16, cl. 17, repealed by Act 41, 1852

1818, " 11, repealed by Act 21, 1856

1819, " 8, s. 9 extended by Act 6, 1853

1821, " 3, s. 6 repealed by Act 20, 1856

1824, " 1, ss. 1 to 7 repealed by Act 6, 1857

" " 7, except the first 5 clauses of s. 18, repealed by Act 21, 1856; and those 5 clauses, and ss. 23, 24 by Act 12, 1857

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" " 19, repealed by Act 27, 1854
1826, " 8, ss. 23, 24 repealed by Act 21, 1856
1829, " 10, general rule at end of Schedule A. repealed by Act 41, 1858
" " 11, repealed by Act 52, 1855
1830, " 5, s. 4 repealed by Act 3, 1857
" " 10, s. 18 repealed by Act 18, 1852
1831, " 5, s. 5, cl. 5, s. 6 partly, s. 8, cl. 3 partly, s. 15, cl. 3 repealed by Act 26, 1852
" " 11, ss. 3, 7 repealed by Act 16, 1856
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" " 6, repealed by Act 1, 1852
1815, " 1, repealed by Act 13, 1856
" " 3, partly repealed by Act 14, 1856
1818, " 1, repealed by Act 13, 1856
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END OF VOL. II.

1852—1858.

PRINTED BY JOHN KING & COMPANY, LIMITED, Queen Street, London, E.C.